m3.2 CGT Events (div 104)

Event number	Descri-ption	Timing of event	Example	Capital Gain is	Capital Loss is	Exceptions	CGT Disct
Disposals							
A1 (s. 104-10)	**Disposal of a CGT asset**	Disposal of a CGT asset	Disposal of a CGT asset	capital proceeds from disposal less asset's cost base	asset's reduced cost base less capital proceeds	gain/loss is disregarded if asset was acquired before 20/09/85	allowed (50% ind, 33.33% super, NIL companies, NIL for NR after 12/05/-2021, NIL if indexation applied
B1 (s. 104-15)	Use and enjoyment before title passes.	When use of CGT asset passes to another entity.	Hire purchase arrang-ements.	capital proceeds less asset's cost base	asset's reduced cost base less capital proceeds	gain/loss is disregarded if asset does not pass at or before the end of the agreement, or where the asset was acquired before 20/09/85	allowed (50% ind, 33.33% super, NIL companies, NIL for NR after 12/05/-2021, NIL if indexation applied
End of a CGT asset (C1–C3)							

m3.2 CGT Events (div 104) (cont)

C1 (s. 104-20)	**Loss or destruction of a CGT asset**	When the taxpayer receives compensation or, if none, when loss is discovered or destruction occurred.	Factory destroyed by fire.	capital proceeds less asset's cost base	asset's reduced cost base less capital proceeds
C2 (s. 104-25)	**Cancellation, surrender and similar endings.**	When the taxpayer receives compensation or, if none, when loss is discovered or destruction occurred.	Cancellation of legal rights arising from a contract.	capital proceeds from ending less asset's cost base	asset's reduced cost base less capital proceeds
C3 (s. 104-30)	End of option to acquire shares,etc	When option ends.	Gain/loss made by company when option to acquire its shares expires without being exercised.	capital proceeds from granting option less expenditur in granting it	expenditure in granting option less capital proceeds
Bringing into existence a CGT asset (D1–D4)					

m3.2 CGT Events (div 104) (cont)

D1 (s. 104-35)	**Creating contractual or other rights.**	When taxpayer enters into contract or right is created.	Non-compete clause in a business sale contract.	capital proceeds from creating right less incidental costs of creating it	incidental costs of creating right less creating right less capital proceeds	D1 does not apply when another CGT event, other than H2, occurs	Not Allowed
D2 (s. 104-40)	**Granting an option.**	When option is granted.	Option to purchase land within a specified period granted.	capital proceeds from grant less expenditure to grant it	expenditure to grant option less capital proceeds	If option is exercised, any gain/loss arising from the grant, renewal or extension is disregarded	Not Allowed
D3 (s. 104-45)	Granting a right to income from mining.	When taxpayer enters into contract or right is granted.	Taxpayer holds a mining entitlement and grants a right to income from operations permitted under the entitlement.	capital proceeds from grant of right less expenditure to grant it	expenditure to grant right less capital proceeds		

m3.2 CGT Events (div 104) (cont)

D4 (s. 104-47)	Entering into a conservation covenant	When covenant is entered into.	Landowner enters into covenant with government to conserve their property for environmental purposes	capital proceeds from covenant less cost base apportioned to the covenant	reduced cost base apportioned to the covenant less capital proceeds from covenant
Trusts (E1–E10)					
E1 (s. 104-55)	Creating a trust over a CGT asset.	When trust is created	Assets are transferred to a new family trust.	capital proceeds from creating trust less asset's cost base	asset's reduced cost base less capital proceeds
E2 (s. 104-60)	Transferring a CGT asset to a trust.	When asset is transferred.	Assets are transferred to an existing family trust.	capital proceeds from tranfer less asset's cost base	asset's reduced co
E3 (s. 104-65)	Converting a trust to a unit trust.	When trust is converted.	Non-unit trust is converted to a unit trust.	market value of asset at that time less its cost base	asset's reduced cost base less that market value

m3.2 CGT Events (div 104) (cont)

E4 (s. 104-70)	Capital payment for trust interest.	When trustee makes payment	Amounts distributed from a unit trust that are non-assessable due to the small business 50% concession.	non-assessable part of the paymetn less cost base of the trust interest	No Capital Loss
E5 (s. 104-75)	Beneficiary becoming entitled to a trust asset	When beneficiary becomes absolutely entitled.	In specie distribution of trust assets to a beneficiary.	for trustee- MV of CGT asset at that time less its cost base; for beneficiary that MV less cost base of beneficiary's capital interest	for trustee-reduced cost base of CGT assets at that time less that MV; for beneficiary - reduced cost base of beneficiary's capital interest less that MV

m3.2 CGT Events (div 104) (cont)

E6 (s. 104-80)	Disposal to beneficiary to end income right.	Time of the disposal	Property transfers on the winding-up of a trust	for trustee- MV of CGT asset at that time less its cost base; for beneficiary that MV less cost base of beneficiary's right to income	for trustee-reduced cost base of CGT asset at that time less that MV; for beneficiary-reduced cost base of beneficiary's right to income less that MV
E7 (s. 104-85)	Disposal to beneficiary to end capital interest.	Time of the disposal.	Property disposals on the winding-up of a trust.	for trustee- MV of CGT asset at that time less its cost base; for beneficiary that MV less cost base of beneficiary's capital interest	for trustee-reduced cost base of CGT asset at that time less that MV; for beneficiary-reduced cost base of beneficiary's right to income less that MV

m3.2 CGT Events (div 104) (cont)

E8 (s. 104-90)	Disposal by beneficiary of capital interest.	When disposal contract is entered into or, if none, when beneficiary ceases to own CGT asset.	Sale of trust interests originally acquired for $nil consideration	capital proceeds less appropriate proportion of the trust's net assets	appropriate proportion of the trust's net assets less capital proceeds
E9 (s. 104-105)	Creating a trust over future property.	When taxpayer makes agreement.	Assignment of prospective interest in partnership to a discretionary trust.	MV of hte property (as if it existed when agreement made) less incidental costs in making agreement	incidental costs in making agreement less MV of the property (as if it existed when agreement made)
E10 (s. 104-107A)	Annual cost base reduction of interest in attribution managed investment trust (AMIT).	When the reduction happens.	The annual reduction in cost base due to tax-deferred distributions exceeds the cost base of the asset.	excess of cost base reduction over cost base	No Capital Loss

Leases (F1–F5)

m3.2 CGT Events (div 104) (cont)

F1 (s. 104-110)	**Granting, renewing or extending a lease.**	When lease agreement is entered into or, if none, at start of lease. For lease renewal/extension, at start of renewal/extension.	Lessor grants a lease and, if it is a long-term lease, does not choose to apply event F2.	capital proceeds less expenditure on grant, renewal or extension	expenditure on grant, renewal or extension less capital proceeds
F2 (s. 104-115)	Granting, renewing or extending a long-term lease.	When lessor grants the lease or at start of renewal or extension.	Lessor grants lease over land and lease is for at least 50 years.	capital proceeds from grant, renewal or extension less cost base of leased property	reduced cost base of leased property less capital proceeds from grant, renewal or extension
F3 (s. 104-120	Lessor pays lessee to get lease changed	When lease term is varied or waived.	Payment made by lessor to shorten duration of lease.	No Capital Gain	amount of expenditure to get lessee's agreement

m3.2 CGT Events (div 104) (cont)					
F4 (s. 104-125)	Lessee receives payment for changing lease.	When lease term is varied or waived.	Payment received by lessee for agreeing to shorten duration of lease.	capital proceeds less cost base of lease	No Capital Loss
F5 (s. 104-130)	Lessor receives payment for changing lease	When lease term is varied or waived.	Payment received by lessor for agreeing to shorten duration of lease.	capital proceeds less expenditure in relation to variation or waiver	expenditure in relation to variation or waiver less capital proceeds
Shares (G1 and G3)					
G1 (s. 104-135)	Capital payment for shares.	When company pays nonassessable amount.	Liquidator’s interim distribution made more than 18 months before company ceases to exist.	payment less cost base of shares	No Capital Loss

m3.2 CGT Events (div 104) (cont)

G3 (s. 104-145)	Liquidator or administrator declares shares or financial instruments worthless.	When declaration is made.	Liquidator makes declaration before final winding-up of a company where no further shareholder distributions expected.	No capital Gain	share's or financial instruments' reduced cost base
Special capital receipts (H1 and H2)					
H1 (s. 104-150)	**Forfeiture of a deposit**.	When deposit is forfeited.	Deposit paid to taxpayer is forfeited when purchaser pulls out of contract for sale of land.	deposit less expenditure in connection with prospective sale	expenditure in connection with prospective sales less deposit

m3.2 CGT Events (div 104) (cont)

H2 (s. 104-155)	Receipt for event relating to a CGT asset (residual event — designed to ensure tax is paid where no other CGT event applies).	When act, transaction or event occurs.	Payment to the owner of land who plans to build a building on the land as an inducement to commence building early, but with no legal obligation to do so.	capital proceeds less Incidental costs	Incidental costs less capital proceeds
Australian residency ends (I1 and I2)					
I1 (s. 104-160)	Individual or company stops being an Australian resident.	When individual or company stops being Australian resident.	Taxpayer owning certain assets leaves Australia to become permanent resident of the UK.	for each CGT asset the person owns, its MV of asset less its cost base	for each CGT asset the person owns, its reduced cost base less its MV

m3.2 CGT Events (div 104) (cont)					
I2 (s. 104-170)	Trust stops being resident trust.	When trust ceases to be resident trust for CGT purposes.	Trustee and central management and control of a trust move overseas.	for each CGT asset the trustee owns, its MV of asset less its cost base	for each CGT asset the trustee owns, its reduced cost base less its MV
CGT events relating to rollovers (J1, J2, J4–J6)					
J1 (s. 104-175)	Company stops being member of wholly owned group after rollover. (Note: Since the tax consolidation regime was introduced, this event occurs only rarely.)	When the company is no longer fully owned by the group.	Rollover of Australian asset from a non-resident group company to a resident group company, followed by break-up of corporate group.	MV of asset at time of event less its cost base	reduced cost base of asset less MV

m3.2 CGT Events (div 104) (cont)

J2 (s. 104-185)	Change in relation to replacement asset or improved asset after small business rollover.	When the change happens.	Replacement asset acquired by taxpayer under small business rollover becomes trading stock.	the amount mentioned in subsection 104-185(5)	No Capital Loss
J4 (s. 104-195)	Trusts fails to cease to exist after its assets are rolled over into a company.	When failure occurs.	Trust continues to exist six months after its assets have been rolled over into a company under Subdivision 124-N.	MV of asset less asset's cost base	reduced cost base of asset less asset's MV

m3.2 CGT Events (div 104) (cont)

J5 (s. 104-197)	Failure to acquire replacement asset or undertake capital expenditure in respect of existing active asset after small business replacement asset rollover	At end of replacement asset period (generally two years after the rollover	Taxpayer claims small business rollover relief on disposal of an asset but does not purchase a replacement asset within two years after the disposal.	the amt of capital gain that you disregarded under subdiv 152-E	No Capital Loss

m3.2 CGT Events (div 104) (cont)

J6 (s. 104-198)	Cost of replacement asset or capital expenditure in respect of existing active asset not sufficient to cover capital gain disregarded under small business rollover.	At end of replacement asset period (generally two years after the rollover	Taxpayer claims small business rollover relief on disposal of an asset but purchases a replacement asset costing less than the gain that was disregarded under the rollover.	the amt mentioned in subsec 104-198(3)	No Capital Loss

Other CGT events (K1–K12)

m3.2 CGT Events (div 104) (cont)

K1 (s. 104-205)	International transfer of emissions unit (CGT implications of carbon pricing).	When the unit starts to be held as a registered emissions unit.	Taxpayer starts to hold an international emissions unit as a registered emissions unit.
K2 (s. 104-210)	Bankrupt pays amount in relation to debt.	When payment is made.	Bankrupt taxpayer can claim part of pre-bankruptcy capital loss if taxpayer repays some of the related debt.
K3 (s. 104-215)	Asset passes to taxadvantaged entity after death.	When individual dies.	Asset is transferred to a foreign resident beneficiary on death of taxpayer.

m3.2 CGT Events (div 104) (cont)

K4 (s. 104-220)	CGT asset becomes trading stock of taxpayer	When asset becomes trading stock.	Land previously held as an investment is subdivided by the taxpayer in preparation for development and sale and becomes trading stock.
K5 (s. 104-225)	Companies and trusts holding collectable assets that have fallen in market value.	When CGT events A1, C2 or E8 happen to shares in the company or interests in the trust that owns the collectable.	Taxpayer sells shares in a company that owns artwork that has decreased in value

m3.2 CGT Events (div 104) (cont)

K6 (s. 104-230)	Sale of pre-CGT shares or trust interest, where market value of post- CGT assets held by company/trust represents at least 75% of net value of the company/trust.	When another CGT event involving the shares or interest occurs.	Taxpayer sells pre-CGT shares in private company. 80% of the value of the company relates to post-CGT assets.

m3.2 CGT Events (div 104) (cont)

K7 (s. 104-235)	Balancing adjustment event occurs for a depreciating asset used wholly or partly for private purposes.	When balancing adjustment event occurs.	Disposal of a truck partly used for private purposes.
K8 (s. 104-250)	Direct value shifts affecting equity or loan interests in a company or trust.	When decrease in value of equity or loan interest occurs	Existing shares in a family business held by a husband and wife are devalued when new shares are issued to the son.

m3.2 CGT Events (div 104) (cont)

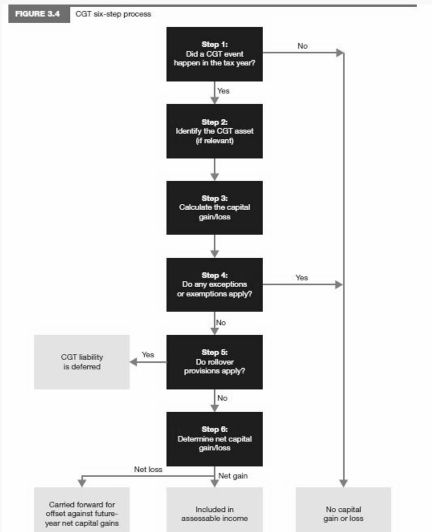
K9 (s. 104-255)	Entitlement to receive certain amounts in respect of venture capital investments.	When the entitlement arises.	Capital gains on sale of eligible venture capital investments
K10 (s. 104-260)	Foreign exchange gains.	When the foreign currency amount is paid to the taxpayer.	Foreign exchange gain on the sale of a CGT asset for foreign currency consideration, paid within 12 months of the sale.

m3.2 CGT Events (div 104) (cont)

K11 (s. 104-265)	Foreign exchange losses	When the foreign currency amount is paid to the taxpayer	Foreign exchange loss on the sale of a CGT asset for foreign currency consideration, paid within 12 months of the sale.
K12 (s. 104-270)	Foreign hybrid loss exposure adjustment	Just before the end of the tax year.	Capital loss made by partners in foreign hybrids (e.g. UK limited partnerships).

Division 104:
A group ► Disposal of CGT assets
B group ► Economic use before ownership
C group ► Ending of CGT assets
D group ► Creation of CGT assets
E group ► Trust
F group ► Leases
G group ► Shares
H group ► Special Capital Receipts
...and so on...

m3.1 6s Step Determining CGT (s.100-15)



Capital Gains
Less: Capital Losses
Less: Carried Forward Net Capital Lossess
Less: CGT Discount
Less: CGT Small Business Concession

Net Capital Gains included in the Assessable Incomer per s.102-5 ITAA97

m3.2 CGT Events - Exam Coverage

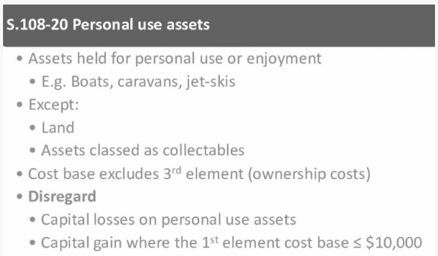
m3.3 CGT Asset (s.108-5)

Land and Bldg (related together, or as separate assets	Shares in a company
Leases	Units in a Unit Trust
Goodwill	Rights and Options
Licenses	Convertible Notes
Contractual Rights	Interest in Partnership or in an asset of a Partnership
Foreign Currency (but not AUD cash)	Any major capital improvement made to certain land or pre-CGT assets
*Personal use assets	*Collectibles
Know-how (**not a CGT asset**) ▸	Intellectual Property > CGT asset

*Special CGT rules applies

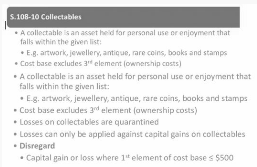
Collectibles (s.108-10) e.g. artworks, jewelry, antiques, coins, rare books & postage stamps
Personal Use Assets (s.108-20) e.g. non-collectible assets, such as boats, caravans & sports equipment

m3.3 CGT Assets - Personal Use (s108-20)


S.108-20 Personal use assets

- Assets held for personal use or enjoyment
  - E.g. Boats, caravans, jet-skis
- Except:
  - Land
  - Assets classed as collectables
- Cost base excludes 3rd element (ownership costs)
- **Disregard**
  - Capital losses on personal use assets
  - Capital gain where the 1st element cost base ≤ $10,000

m3.3 CGT Asset - Collectables (s108-10)


S.108-10 Collectables

- A collectable is an asset held for personal use or enjoyment that falls within the given list:
  - E.g. artwork, jewellery, antique, rare coins, books and stamps
- Cost base excludes 3rd element (ownership costs)
- A collectable is an asset held for personal use or enjoyment that falls within the given list:
  - E.g. artwork, jewellery, antique, rare coins, books and stamps
- Cost base excludes 3rd element (ownership costs)
- Losses on collectables are quarantined
- Losses can only be applied against capital gains on collectables
- **Disregard**
  - Capital gain or loss where 1st element of cost base ≤ $500

m3.4 Capital Proceeds

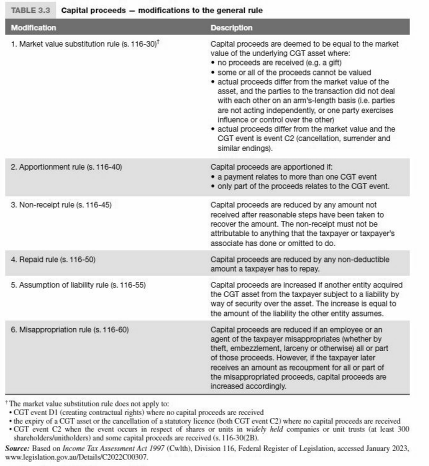


TABLE 3.3 **Capital proceeds — modifications to the general rule**

Modification	Description
1. Market value substitution rule (s. 116-30)†	Capital proceeds are deemed to be equal to the market value of the underlying CGT asset where: • no proceeds are received (e.g. a gift) • some or all of the proceeds cannot be valued • actual proceeds differ from the market value of the asset, and the parties to the transaction did not deal with each other on an arm's-length basis (i.e. parties are not acting independently, or one party exercises influence or control over the other) • actual proceeds differ from the market value and the CGT event is event C2 (cancellation, surrender and similar endings).
2. Apportionment rule (s. 116-40)	Capital proceeds are apportioned if: • a payment relates to more than one CGT event • only part of the proceeds relates to the CGT event.
3. Non-receipt rule (s. 116-45)	Capital proceeds are reduced by any amount not received after reasonable steps have been taken to recover the amount. The non-receipt must not be attributable to anything that the taxpayer or taxpayer's associate has done or omitted to do.
4. Repaid rule (s. 116-50)	Capital proceeds are reduced by any non-deductible amount a taxpayer has to repay.
5. Assumption of liability rule (s. 116-55)	Capital proceeds are increased if another entity acquired the CGT asset from the taxpayer subject to a liability by way of security over the asset. The increase is equal to the amount of the liability the other entity assumes.
6. Misappropriation rule (s. 116-60)	Capital proceeds are reduced if an employee or an agent of the taxpayer misappropriates (whether by theft, embezzlement, larceny or otherwise) all or part of those proceeds. However, if the taxpayer later receives an amount as recoupment for all or part of the misappropriated proceeds, capital proceeds are increased accordingly.

† The market value substitution rule does not apply to:
- CGT event D1 (creating contractual rights) where no capital proceeds are received
- the expiry of a CGT asset or the cancellation of a statutory licence (both CGT event C2) where no capital proceeds are received
- CGT event C2 when the event occurs in respect of shares or units in *widely held* companies or unit trusts (at least 300 shareholders/unitholders) and some capital proceeds are received (s. 116-30(2B).

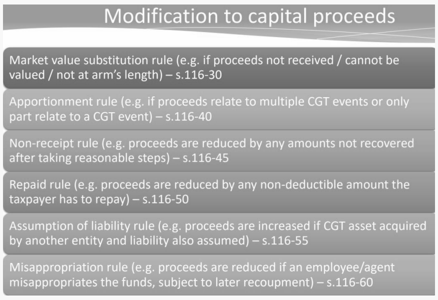
Source: Based on *Income Tax Assessment Act 1997* (Cwlth), Division 116, Federal Register of Legislation, accessed January 2023, www.legislation.gov.au/Details/C2022C00307.

Section 116-20 Capital proceeds include:
- Money received or receivable
- MV of any property received or receivable

Section 103-10 You are deemed to have received the money or property even if:
- Payment is not due until later or
- Payable in installment

** You can have an income tax liability in the event year, even when you have not received the capital proceeds yet.

m3.4 Capital Proceeds - Modification



m3.4 Five Element of Cost Base

TABLE 3.4 **Five elements of cost base**

Element	Examples
1. The money paid, or required to be paid, in acquiring the asset plus the market value of any property given or required to be given.	A taxpayer pays $1000 for a painting at an art auction. The first element of the painting's cost base is $1000. A taxpayer purchases land for $600 000. The vendor agrees that the purchase price can be paid in three monthly instalments of $200 000. The first element of the land's cost base is $600 000, even if all instalments have not yet been paid (s. 110-25).
2. Incidental costs incurred where no tax deduction has been or will be allowed for these costs.	The incidental costs can only include the following costs which, with the exception of the second last bullet point (concerning the head company of a consolidated group), relate to acquiring the CGT asset, or to the CGT event (s. 110-35): • remuneration for the services of a surveyor, valuer, auctioneer, accountant, broker, agent, consultant or legal adviser • transfer costs • stamp duty • advertising and marketing costs • valuation and apportionment costs • search fees • conveyancing kit costs • borrowing expenses, such as loan application and mortgage discharge fees • costs incurred by a head company of a consolidated group to a person outside the group that reasonably relates to a CGT asset transferred between members of the group • termination or similar fees as a direct result of the ownership of an asset ending.
3. The costs of owning the CGT asset, but only where the asset was acquired after 20.08.91 and where no tax deduction has been or will be allowed for these costs.	These costs include: • interest on money borrowed to acquire the asset • costs of maintaining, repairing and insuring it • rates or land tax • interest on money borrowed to refinance the money borrowed to acquire the asset • interest on money borrowed to finance capital expenditure to increase the asset's value.
4. Capital expenditure incurred: • for the purpose or expected effect of increasing or preserving the asset's value (does not apply to capital expenditure incurred in relation to goodwill) • that relates to installing or moving the asset.	Initial (non-deductible) repair expenditure incurred on a CGT asset after its acquisition would be included in the fourth element of the cost base of the asset (see Taxation Determination TD 98/19; see module 2).
5. Capital expenditure incurred to establish, preserve or defend title to the asset or aright over the asset.	Compensation payment made to a potential purchaser of a CGT asset when the sale contract is terminated would be included in the fifth element of the cost base of the asset.

Any expenditure relating to illegal activities, entertainment, penalties and bribes to a public official is **excluded** from the cost base of a CGT asset.

Indexed Cost Base

- Assets acquired at or before 21 September 1999

-NOT subjected to indexation

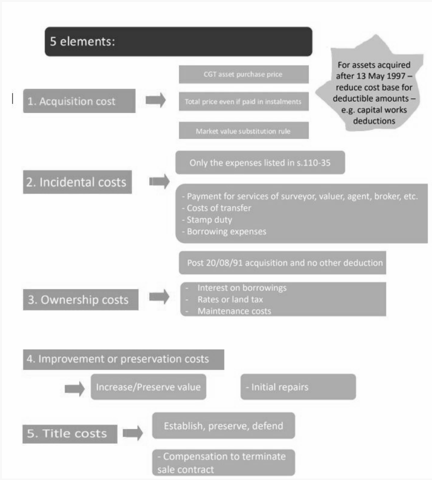
- Indexation for CPI is not possible

- Held at least 12 months before the CGT event occurred

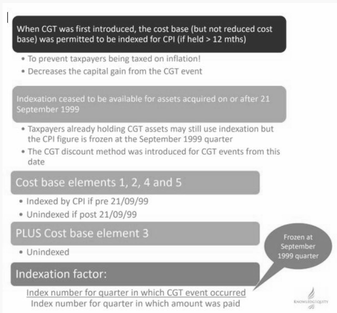
Reduced Cost Base

- Similar to "Cost Base" excluding the Ownership Costs eg. interest on money borrowed or repairs

m3.4 Cost Base - Detailed Element subdiv 110-A

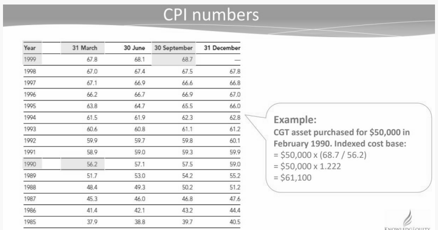


M3.4 Indexed Cost Base - 21 SEP 1999



CPI INDEXATION FROZEN BY 21 SEP 1999

m3.4 CPI


CPI numbers

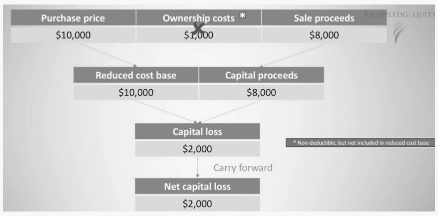
Year	31 March	30 June	30 September	31 December
1999	67.8	68.1	68.7	—
1998	67.0	67.4	67.5	67.8
1997	67.1	66.9	66.6	66.8
1996	66.2	66.7	66.9	67.0
1995	63.8	64.7	65.5	66.0
1994	61.5	61.9	62.3	62.8
1993	60.6	60.8	61.1	61.2
1992	59.9	59.7	59.8	60.1
1991	58.9	59.0	59.3	59.9
1990	56.2	57.1	57.5	59.0
1989	51.7	53.0	54.2	55.2
1988	48.4	49.3	50.2	51.2
1987	45.3	46.0	46.8	47.6
1986	41.4	42.1	43.2	44.4
1985	37.9	38.8	39.7	40.5

Example:
CGT asset purchased for $50,000 in February 1990. Indexed cost base:
= $50,000 x (68.7 / 56.2)
= $50,000 x 1.222
= $61,100

m3.4 CGT Gain - Exercise

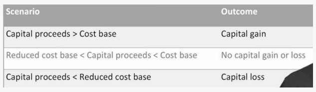
CAPITAL GAIN = CAPITAL PROCEEDS > COST BASE

m3.4 CGT Loss - Exercise



CAPITAL LOSS = REDUCED COST BASE > CAPITAL PROCEEDS

m3.4 CGT Gain/Loss



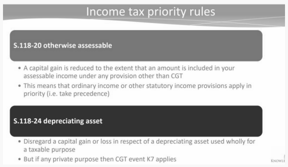
Scenario	Outcome
Capital proceeds > Cost base	Capital gain
Reduced cost base < Capital proceeds < Cost base	No capital gain or loss
Capital proceeds < Reduced cost base	Capital loss

Given: shares bought 3-yr ago at cost for $30k. Incurred ownership costs of $3k during the last 3 yrs. In the current tax year, James sold the shares for $32,000, triggering CGT Event A1. What is James' net capital gain or loss?
Ans: However, capital proceeds ($32K) > Reduced Cost Base ($30k) excl $3k ownership costs,3rd element is excluded from the reduced cost base) and so no capital loss arises.

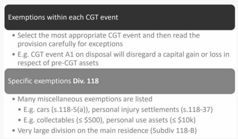
m3.4 Pre CGT Assets - 30 SEP 1985

CGT was introduced on 20 SEP 1985

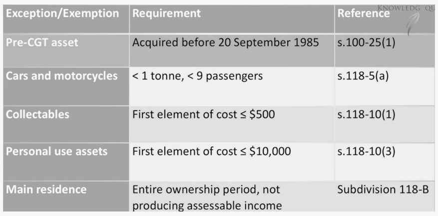
m3.4 Income Tax Priority



m3.4 CGT Exemptions

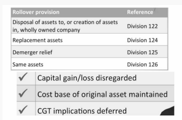


m3.4 CGT Exemption/Exceptions



Exception/Exemption	Requirement	Reference
Pre-CGT asset	Acquired before 20 September 1985	s.100-25(1)
Cars and motorcycles	< 1 tonne, < 9 passengers	s.118-5(a)
Collectables	First element of cost ≤ $500	s.118-10(1)
Personal use assets	First element of cost ≤ $10,000	s.118-10(3)
Main residence	Entire ownership period, not producing assessable income	Subdivision 118-B

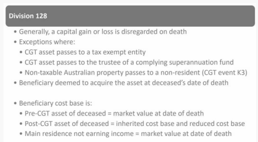
m3.4 CGT Rollover Provisions



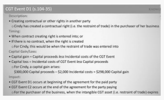
Rollover provision	Reference
Disposal of assets to, or creation of assets in, wholly owned company	Division 122
Replacement assets	Division 124
Demerger relief	Division 125
Same assets	Division 126

✓	Capital gain/loss disregarded
✓	Cost base of original asset maintained
✓	CGT implications deferred

m3.4 Rollover - Deceased Estate



m3.4 CGT Events - D1 Creation/Start



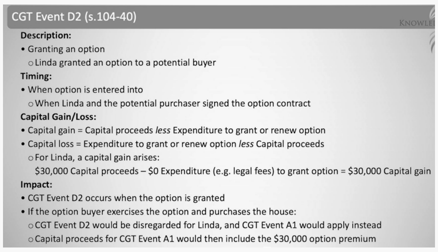
Given:

Sale of Business = $2mil

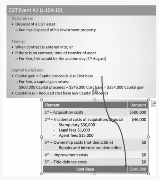
Non-compete clause (3years, 5km radius) - $300k - Restraint of Trade*

Legal fees - $2k

m3.4 CGT Events D2 Granting an Option

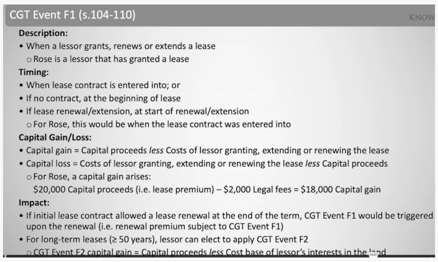


m3.4 - CGT Event - A1 Disposal (s104-10)

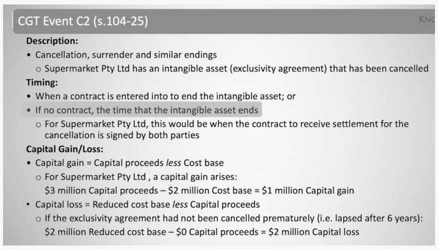


Reduced Cost Base = ignoring ownership costs

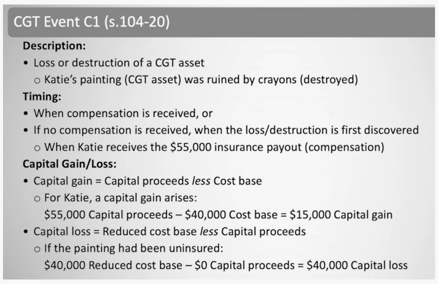
m3.4 F1 Lease



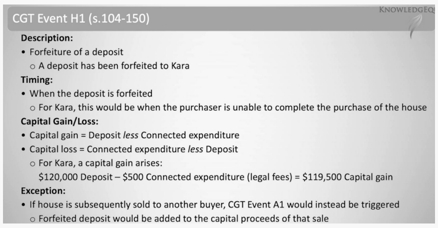
m3.4 CGT Event - C2 Forfeiture, Cancel, Surrender



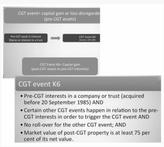
m3.4 CGT Event - C1 Loss/Destruction (s.104-20)



m3.4 CGT Event - H1 Forfeiture (s.104-150)

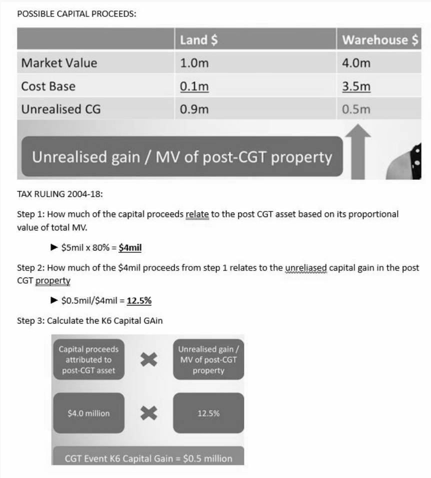


m3.4 CGT Events for pre-CGT Asset - K6



The company or trust is not disposing of its assets. The **taxpayer selling the pre-CGT shares or trust interests** is receiving capital proceeds from a CGT event (A1) but because the gain is likely related to post-CGT assets held by the company or trust (where it makes up a high proportion of its net value) then a portion of the unrealised gain in relation to those post-CGT assets is apportioned to the taxpayer for CGT purposes.

m3.4 CGT Event - K6 Exercise


POSSIBLE CAPITAL PROCEEDS:

	Land $	Warehouse $
Market Value	1.0m	4.0m
Cost Base	0.1m	3.5m
Unrealised CG	0.9m	0.5m

Unrealised gain / MV of post-CGT property

TAX RULING 2004-18:

Step 1: How much of the capital proceeds relate to the post CGT asset based on its proportional value of total MV.

► $5mil x 80% = **$4mil**

Step 2: How much of the $4mil proceeds from step 1 relates to the unreliased capital gain in the post CGT property

► $0.5mil/$4mil = **12.5%**

Step 3: Calculate the K6 Capital GAin

Capital proceeds attributed to post-CGT asset ✖ Unrealised gain / MV of post-CGT property

$4.0 million ✖ 12.5%

CGT Event K6 Capital Gain = $0.5 million

Pre-CGT Land = $1 mil [When Sold - **CGT Capital Gain is Disregarded**
Post-CGT Warehouse = $4 mil ► represent 80% ($4/$5) **Apportionment**
Net Assets = $5 mil

* Capital Gain = Capital Proceeds reasonably attributable to unrealised capital gains in the post CGT property
* NO Capital Loss

m3.4 CGT Main Residence Exemption (s.118-110)

Dwelling (s.118-115)	**Main Residence** factos to consider:
- a unit of accommodation that: (1) bldg mainly used for residential accommodation, and (2) caravan, houseboat or mobile home	- length of time lived in the dwelling;
- a unit of accommodation that:	- intention to occupy the dwelling;
	- taxpayer’s address for mail
	- taxpayer’s address on the electoral roll.

Exceptions to the Main Exemptions below:

meaning Capital Gain/Loss still applies

1. if the dwelling was your main residence for only part of the ownership period

m3.4 CGT Main Residence Exemption (s.118-110) (cont)

2. if the dwelling was used for the purpose of producing assessable income (s. 118-190).

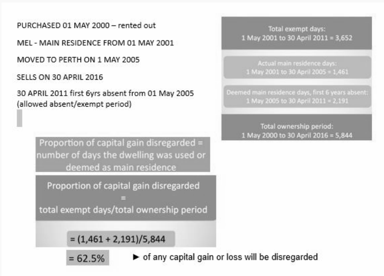
A capital gain or loss from a CGT event happening to an ownership interest in a dwelling can be disregarded if:
1. you are an individual
2. the dwelling was your main residence throughout the ownership period
3. you did not inherit the ownership interest (note that separate rules apply to beneficiaries of deceased estates).

m3.4 Main Residence Exemptions

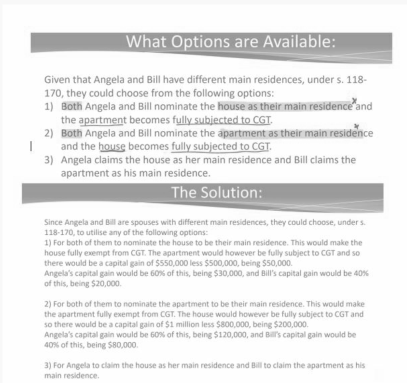
Adjacent Land - s.118-120	**Absences - s.118-145**
The Main Residence Exemption Extends:	Absence period > 6 years (resets when returned and lived in the main residence)
► **Private Purpose**	Earning Assessable Income? (Indefinite exemption if not earning, like having it rent-free)
► Max Area: **Less than 2 hectares** less the area where the main residence is sitting	Can not claim 2 dwellings at the same time.

Key Points
Exemption only applies to **INDIVIDUAL TAXPAYERS**

m3.4 Main Residence Exemption - Absences

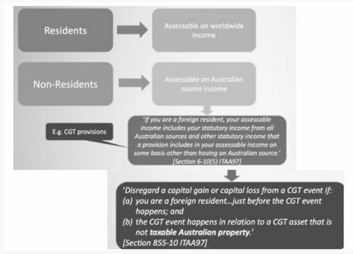


m3.4 Main Residence Exemption - Spouses



Spouses can only have one wholly exempt dwelling at any time.

m3.4 Foreign Resident - Taxable Au Properties



CGT assets that are **'taxable Australian property'** are always subject to CGT - even if the owner is a **non-resident.**

m3.4 Foreign Resident Taxable Au Property

	Taxable Australian property	Non-taxable Australian property
Non-resident	CGT liability will only arise when such assets are subject to a CGT event (e.g. sale)	No CGT liability arises when CGT event occurs
Resident becomes a non-resident	No CGT liability arises until future CGT event occurs	CGT Event I1 occurs and CGT liability arises (unless elect to treat as Taxable Australian property, deferring the CGT liability until future CGT event)

m3.4 Taxable Australian Property Category

s.855-15 ITAA97

m3.4 Foreign Resident - Tax Au Property

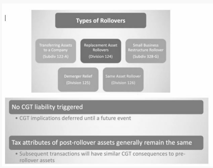
1. **Taxable Au Real Property** - s.855-20	1.1 Real Estate
	1.2 Mining, quarry, propespecting rights where the minerals are located in AU
2. **Indirect Au Real Property** - s855-25	2.1 Membership Interest (shares or units) in another entity (test entity) where:

m3.4 Foreign Resident - Tax Au Property (cont)

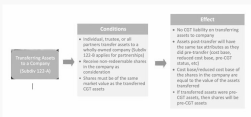
	cond a. the holding is 10% or more of the test entiry
	cond b. the principal assets, by market value, of the test entity consist predominantly of taxable Au real property
3. **CGT Assets used in carrying on a business through an Au Permanent Establishment**	Asset owned by a local branch of a foreign co.
4. **Option or Right to Acquire a CGT asset in any of the prior 3 categories**	
5.** CGT asset elected to be treated by an individual as taxable Au Property under CGT Event I1(s104-165(3) ITAA97)	5.1 Triggered when an Au Res ceases their Au Residency (exit tax on leaving)
	5.2 Makes non-taxable Au Property subject to CGT at such a time (deemed disposal rule)
	5.3 Taxpayer may elect to treat non-taxable Au Property as taxable Au Property

Treatment/Options:
1. CGT liability is deferred until a later CGT event happens
2. Subject to higher non-resident tax rates in Au
3. Not entitled to the full CGT discount

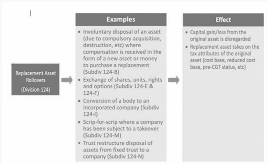
m3.4 Rollover Provision



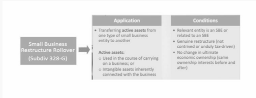
m3.4 Rollover Provision - D122 Transfer



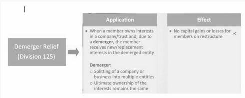
m3.4 Rollover Provision - Div 124 Replacement



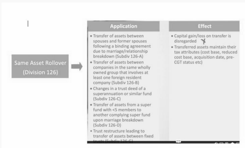
m3.4 Rollover Provision SDiv 328G Restructure



m3.4 Rollover Provision - Div 125 Demerger



m3.4 Rollover Provision Div126 Same Asset RO



m3.5 CGT Discount

Taxpayer	Discount
Individuals and trusts	50%
Complying superannuation funds and life insurance companies	33.3%
Other companies	0%

No CGT discount for Companies, NR on accrued capital gains after 08 May 2012

No CGT disount on GAINS where Indexation** has been applied

No CGT discount for CGT Events -

► D1 D2 D3

► E9

► F1 F2 F5

► H2

► J2 J5 J6

► K10

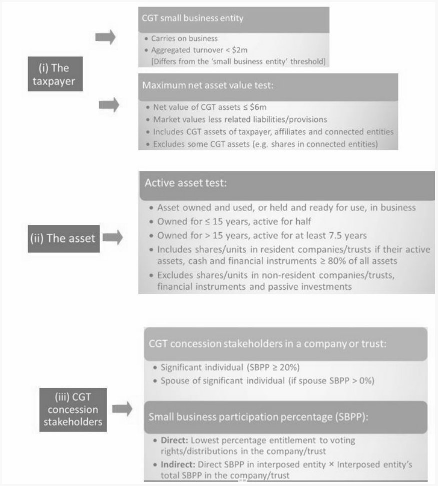
CGT Discount to apply - Requirements

* After 21 September 1999

* No Indexation of the Cost Base

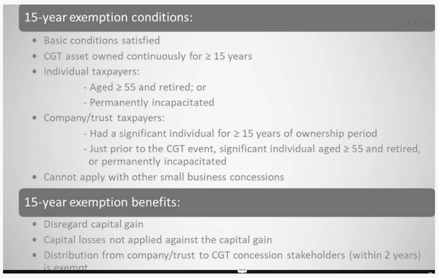
*Owned for at least 12 months

m3.5 CGT Small Business Concessions - Basics



MUST be met for all Concessions

m3.5 CGT Small Business Concessions - 15yr

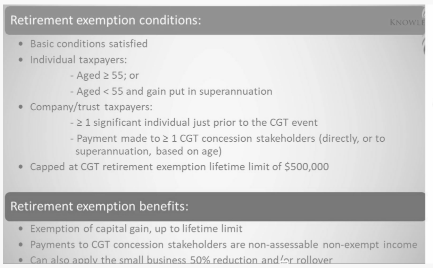


Takes Priority (in isolation) and cannot be used with any other concession.

However, the remaining concessions can be used in combination, subject to meeting all relevant conditions.

m3.5 CGT Small Business Concession - 50% Reduct

m3.5 CGT Small Business Concession - Retirement



m3.5 CGT Small Business Concession - Rollover

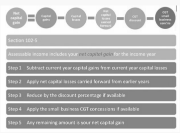
m3.5 CGT Small Business Concession - 50% Reduct

m3.5 Calculating Net Capital Gain/Loss

Category	Disregard capital gain/loss if:	Treatment of capital loss:
Collectable	First element of cost ≤ $500	Offset against collectable gain only
Personal use asset	First element of cost ≤ $10,000	Disregarded

Scenario	Outcome
Capital losses > Capital gains	Net capital loss, to be carried forward
Capital gains > Capital losses	Apply any carried forward net capital losses

m3.5 Calculating - Net Capital Gain/Loss (s.102-5)



m3.4 Net Capital Gain/Loss - Key Points

m3 Timeline