

PROVIDING A NEW SMALL BUSINESS 15-YEAR CAPITAL GAINS TAX EXEMPTION

The Government will extend capital gains tax small business relief by providing an exemption for taxpayers where an active asset has been held continuously for at least 15 years.

This measure provides a further incentive for small business as well as protecting small business taxpayers that hold assets for a long period where the real rate of capital appreciation is very low or negative.

Key features

The measure will add to and be consistent with other small business capital gains tax relief measures.

To qualify for this extra benefit:

- the taxpayer must dispose of the asset to retire because he or she has reached age 55 or more or is incapacitated;
- an asset must be an *active* asset at the time of its disposal (see appendix to Attachment E for definition of ‘active asset’);
- the taxpayer must have held the asset continuously for 15 years;
- the asset would need to have been *active* for at least half of the previous 15 years; and
- where the asset is a company share, trust unit or other membership interest, a ‘look through’ rule will apply to the entity’s assets to link the exemption to the underlying eligible asset and to ensure the benefit flows through to the shareholder or other owner of an eligible equity interest.

If an asset is subject to a rollover (other than as a result of an involuntary rollover provision), the period of ownership commences again.

- For this purpose, the involuntary rollover provisions are those under Subdivision 124-B (asset compulsorily acquired, lost or destroyed) and Subdivision 126-A (marriage breakdown) of the *Income Tax Assessment Act 1997*.

The exemption will not affect a taxpayer’s superannuation reasonable benefit limit.

Commencement date

These provisions will apply to capital gains tax events on or after 20 September 2000 — that is, 15 years after the commencement of the capital gains tax.

Current arrangements

Under the existing law, there is no provision that allows a taxpayer aged 55 or more to dispose of a small business and retire without affecting the taxpayer's superannuation reasonable benefit limit. In gaining access to the capital gains tax retirement exemption, the taxpayer can only exempt a maximum lifetime capital gain limit of \$500,000.

Why the change is needed

The measure will further reduce impediments to investment by small businesses. Moreover, this measure will protect from tax those assets that appreciate broadly in line with inflation.