ULTIMATE REAL ESTATE SUCCESS LIVE & VIRTUAL BOOTCAMP

WORKBOOK - BRISBANE MARCH 2021

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SESSION FOUR

How To Legally Minimise Your Tax And Maximise Your Income

ULTIMATE REAL ESTATE SUCCESS
LIVE & VIRTUAL BOOTCAMP

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SESSION FOUR

TAXATION & BOOKKEEPING

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Client Advisor, Chartered Accountant

Our team are specialists in Property Tax servicing clients all over Australia.

We can assist with: • Accounting Software Setup & Support
• Tax Returns & Financial Statements • Tax & Business Advice
• BAS Preparation • Analysis of Property Feasibilities

Taxation of Structures

- **Sole Trader**
  - Marginal Rates on "Taxable Income"
- **Company**
  - 26% or 30% Tax Rate
- **Super Fund** (discussed in "Super" segment)
  - 15% Tax Rate in "accumulation phase"
  - 0% Tax Rate in "pension phase"

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Taxation of Structures

Trusts & Partnerships

- These are not "separate legal entities"
- They do not pay tax in their own right
- Partnership - Net Income or Loss passed down
- Trust - Net Loss cannot be distributed
- Distribution to associated entities if Trust Deed allows

2020/21 Individual Tax Rates

Taxable Income	Tax Rate
0 – 18,200	Nil
18,201 – 45,000	19%
45,001- 120,000	32.5%
120,001 – 180,000	37%
180,001 +	45%

* Does not include Medicare Levy (2%) or Medicare Levy Surcharge (1 – 1.5%)

ATO HIT LIST

- Covid 19 - if not working, can't claim it
- Small business & high wealth individuals
  - Makes up 50% of $53bn debt on their books
- Rental property deductions
  - Interest, repairs, incorrect apportionment of net rent
- JobKeeper incorrectly claimed
- Data Matching
  - Motor Vehicles – 2019/20 to 2021/22
  - Online Selling – 2018/19 to 2022/23
- Property Developers (including Flipping your PPR)

Bullet Proofing yourself against an ATO audit

- Have a good system for Record Keeping
- Audit Insurance
- Continued Education
- Don't Ignore it!
- **Lodge on time!**

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Are you an investor or are you in the business of real estate?

- Frequency or Regularity
- Profit making Intention
- Start now!! Work out a system

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Record Keeping

- Use an asset register – can be digital!!

Investor Accounting
- Asset Register
- Year end Accounting
- Job Costing
- Receipts (In English, legible, digital or manual)

Project Accounting
- Feasibilities
- Budget v Actual
- Job Costing
- Full Accounting System needed
- Receipts (In English, legible, digital or manual)

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Accounting Systems

MYOB

xero

intuit QuickBooks.

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What Documents to Keep

- Purchase/Sale Contracts
- Settlement Statements including all invoices
- Details of Margin Scheme if applied
- Receipts/Invoices for Annual Income & Expenses
- Property Agent Rental Statements
- Property changed between PPR and rental - need record of dates and market valuations when purpose changes
- Logbooks for MV expenses (if in the business of real estate)
- Diaries to for home office expenses, internet & phone

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How long to keep your Records

- 5 years from the date your notice of assessment was issued- 7 years if you are a company
- Property - 5/7 years from the date your notice of assessment was issued for the year the property was sold
- Capital loss - 5 years after loss is utilised against a capital gain, not after loss incurred

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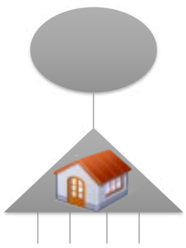
Property Investor



- ✓ Trust has bank account
- ✓ Trust Lodges tax return
- ✓ Trust applies for loan
- ✓ Trust on title (NSW and VIC excepted)

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Property Accounting

Income	**$**
Expenses	**$**
Depreciation	$
Rates	$
Insurance	$
Management	$
Interest	$
Telephone	$
Stationery	$
Repairs	$
Other	$__________
Profit/(Loss)	**$__________**

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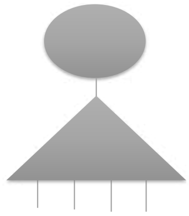
When in the Business of Real Estate

Flipper Trust
- Trust Bank Account
- Trust has ABN and may have registered business name
- Trust may need GST and payroll registration
- Can claim more expenses but trust and intention must exist and must follow through



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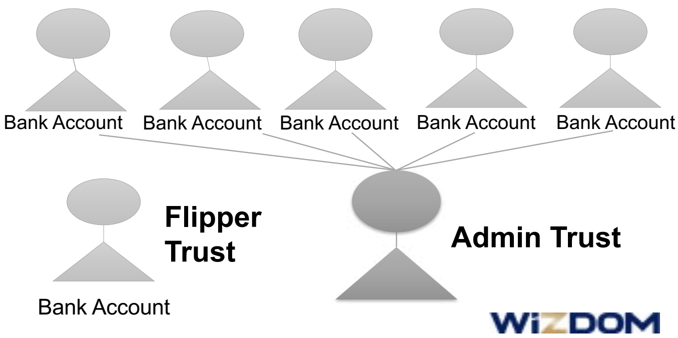
Investment Trusts



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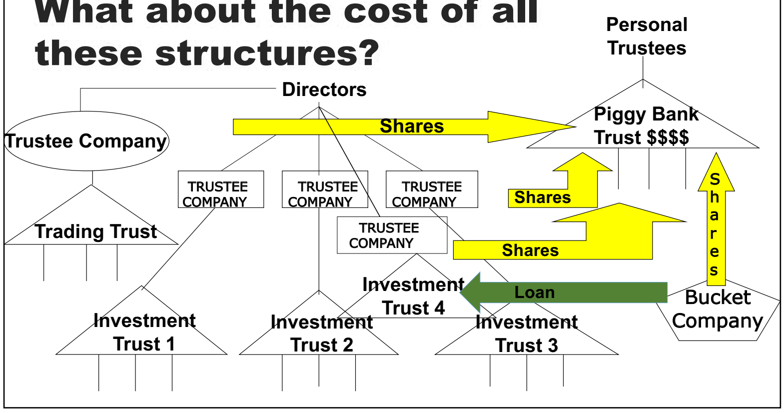
What about the cost of all these structures?



Deductions

- Business
- Individual / Employee
- Rental Property

Expense Categories

- Advertising for tenants
- Bank charges
- Body corporate fees
- Cleaning
- Council rates
- Gardening and lawn mowing
- Home Office
- Insurance
- Land tax
- Legal expenses
- Repairs and maintenance
- Interest expenses
- Phone
- Pest control
- Property agent fees and commissions
- Stationery and postage
- Water charges

Borrowing Expenses. What can I claim?

- Stamp duty charged on the mortgage
- Loan establishment fees
- Title search fees charged by your lender
- Costs for preparing and filing mortgage documents
- Mortgage broker fees
- Fees for a valuation required for loan approval
- Lender's mortgage insurance

5 years or life of the loan, whichever is shorter!!

What can't I claim?

Stamp duty charged by your state/territory government on the transfer (purchase) of the property title – may be included in calculating the capital gains tax

Borrowing expenses on the portion of the loan you use for private purposes (for example, money you invest in a super fund).

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Repairs & Maintenance

Repairs are to make good or remedy defects in, damage to or deterioration of the property.

Maintenance is to prevent deterioration or fix existing deterioration.

Can claim an immediate deduction

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Improvements

When we say 'improvement' we mean work that:

- provides something new
- generally furthers the income-producing ability or expected life of the property
- generally changes the character of the item you have improved
- goes beyond just restoring the efficient functioning of the property.

Needs to be depreciated over a number of years

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When is a repair not a repair?

If you replace something clearly identifiable & separable even if broken – e.g. stove, set of kitchen cupboards it is likely to be an improvement

If you used a different material to what was previously used - e.g. replace wooden cladding with plastic cladding it is likely to be an improvement

Make sure you get detailed invoices especially if work has several components

Repairs & Timing

REPAIRS completed BEFORE a property is rented

- incurred before income is earned
- classified as improvements
- depreciable not deductible

Repairs & Timing

REPAIRS completed DURING a property is being rented

- if attributed to fair wear and tear it is deductible
- otherwise an improvement and depreciable not deductible

Repairs & Timing

REPAIRS completed AFTER a property is being rented

- if attributed to fair wear and tear from tenancy then deductible
- otherwise an improvement and not deductible until property sold

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Repairs & Timing

ASBESTOS is an environmental hazard

- Removal is a repair not an improvement if relates to an investment property
- Deductible in full

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Depreciation

Allowable tax deduction to take account of the fair wear and tear and reducing value of assets.

Two Parts:

- Fixtures and Fittings
- Building or Capital Works

Prime Cost or Diminishing Value?

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Depreciation – Fixtures & Fittings

Limited to new Plant and Equipment for residential rental premises (no claim for second hand assets)

Purchasers of existing plant and equipment are unable to depreciate (forms part of the cost base for CGT purposes)

If you acquire newly developed property, may be able to still claim

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Depreciation – Fixtures & Fittings

What is a “residential premises”

ATO says it can include commercial properties **able to be used** for residential purposes – boarding/rooming houses etc.

This definition also applies to travel

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Depreciation – Building

Building & Capital Improvements

16/9/87 - present
2.5% of building cost when built

Get a Quantity Surveyor

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BMT Educational resources for Investors

- Depreciation Calculator
- Maverick Newsletter
- BMT Website – Investor Page
- You Tube & Social Media

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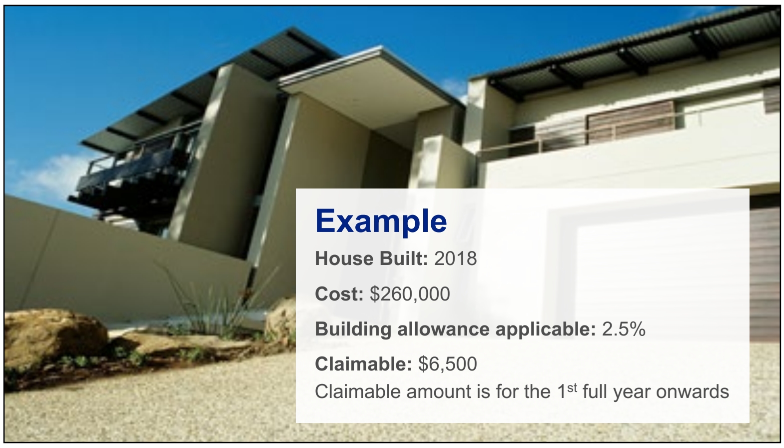


Example

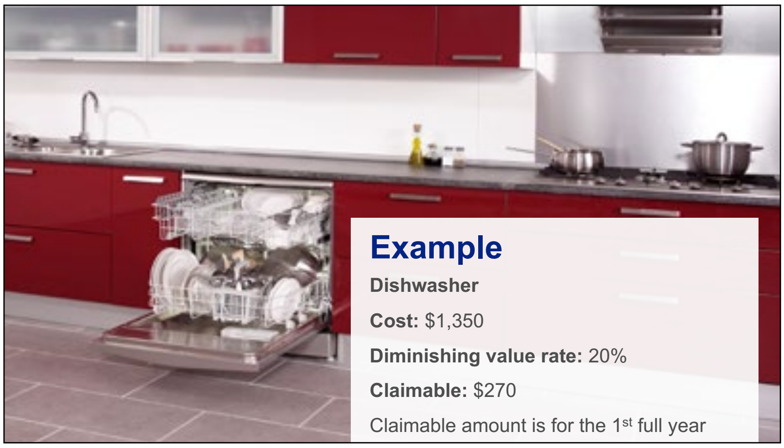
House Built: 2018

Cost: $260,000

Building allowance applicable: 2.5%

Claimable: $6,500

Claimable amount is for the 1st full year onwards



Example

Dishwasher

Cost: $1,350

Diminishing value rate: 20%

Claimable: $270

Claimable amount is for the 1st full year

Scrapping

- Removal and disposal of depreciable assets
- Remaining value = instant tax deduction
- Must be an investment property until the asset is removed
- Can still apply to the building

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Instant Asset Write-off

- Threshold increased from $30k to $150k. Applies from 12 March 2020 to 30 June 2021 (then back to $1,000)
- Must be purchased by 31 December 2020
- Can be new or second-hand assets
- Claim for business portion only but threshold based on assets cost
- Can apply on asset by asset basis for larger businesses but not SBE – less than $10m turnover

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Instant Asset Write-off (Cont.)

- Can be used for:
  - Tools & equipment, computers, laptops and tablets
  - Freestanding office furniture and equipment
  - Motor vehicles
- Rental property is not a business
- Normal cars subject to car cost limit - over 1 tonne or more than nine passengers can claim up to $150k

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Accelerated Depreciation

What if the asset cost $300,000??

- If not eligible for Instant Asset Write Off can get a 50% immediate tax deduction of cost on installation
- Existing depreciation rules then apply to balance
- Applies to new assets only from 12 March 2020 and first used or installed by 30 June 2021

Temporary Full Expensing

- Businesses with aggregated turnover less than $5b can immediately deduct business portion of the cost of new depreciating assets
- Where aggregated turnover less than $50b also applies to the business portion of second-hand depreciating assets
- Also includes improvements to assets
- Amounts incurred between 6 October 2020 and 30 June 2022
- This concession trumps other depreciation concessions - can not choose another method

Home Office & Phone

Home Office

Claim 52c per hour - covers electricity, consumables & decline in furniture

Need a 4 week diary each year showing use

Phone Costs

At least 4 week period recording all phone calls & costs

Then apply business or property use %

Home Office – Covid 19

For all running costs from 1 March 2020 to 30 June 2021

- Alternate method - 80c per hour
  - No dedicated area required
  - Multiple members of household can claim
- Includes depreciation on computer, printers & internet
- Cannot make separate claims for electricity, heating, etc. under this method
- Traditional method may be better

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Travel & Car Costs

2 methods to claim car costs:

- Easiest method is the **cents per kilometre** – 72c
- Must keep a diary for every business trip you make throughout the year
- Other way is **Log Book**

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Travel

- No deduction for residential rental property (Investor)
- Includes travel relating for inspecting, maintaining or collecting rent
- Will not prevent investors claiming expenses for engaging real estate agents for property management
- Travel does not form part of the cost base

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Travel

- Can still claim if in the business of real estate
  - All is claimable or you could pay a travel allowance
- Travel costs can include flights, taxi, meals & accommodation

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Vacant Land Deductions

- From 1 July 2019 can no longer claim holding costs even if held prior to this date
- No claim for borrowing costs, interest, land tax, council rates, maintenance costs
- SMSF's, individuals, closely held trusts
- Amounts are added to cost base for CGT

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Vacant Land Deductions

- Applies to any land where there is no substantial, permanent and independent structure in use or available for use
  - Constructing a future income-producing property
- A Substantial & Permanent building is one that is not incidental to the purpose of another structure and is not built for temporary purposes
- Can still claim holding costs if
  - Used in carrying on a business by the taxpayer or affiliate
  - Primary Producer who provides vacant land under lease, hire or license to another entity

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New Properties & Things to Remember

To Get Best Tax Deduction:

- Ensure borrowing costs aren't missed
- Consider quantity surveyors report
- Provide settlement statement from solicitors – there will be rate/water adjustments

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New Properties & Things to Remember

Things that aren't a tax deduction:

- Legal Fees
- Searches & Fees
- Stamp duty

These will be added to cost of property when sold

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Selling a Property – ATO Requirements

- ATO assumes seller is foreign when selling a property over $750,000
- Means purchaser is required to withhold 12.5% of purchase price
- **To avoid this**, the entity with legal title needs to obtain a clearance certificate from the ATO confirming they are a resident before settlement

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How does GST work?

GST & Property

Depends on type of property:

- In the Business of Real Estate
- Residential property
- Commercial property/ Going Concern
- New constructions
- Major renovations

May all be treated differently!

In the Business of Real Estate - GST

GST Basics

- ABN Per Entity
- Turnover threshold $75,000 before GST is applicable

Are you running an enterprise?

- Regularity & Repetition
- Intention to make a profit
- A business plan exists
- Activities are systematic, organised & conducted in a business like manner & records are kept
- The entity has relevant knowledge or skills

Management of GST

- Property developers no longer manage GST on sales of newly constructed residential property or new subdivisions
- Purchaser remits directly to the ATO
- If margin scheme applies - 7% of contract price
- Otherwise 1/11th of contract price

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GST & One-off Transactions

When do one-off transactions require GST registration?

- Do activities show **profit intention** clearly?
- If not goes to motive

Considerations of Motive

- Does it provide income or personal enjoyment? (Not a profit motive)
- Frequency of similar transactions
- Is it preparing asset for sale? Scale of activities

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10% Method or Margin Scheme

When does it apply:

- When you are selling a property
- Must be a business transaction (profit intention) on applicable properties e.g. on new residential or commercial
- You didn't claim GST on purchase
- Sold to you under the margin scheme or
- Seller wasn't GST registered or GST wasn't applicable
- Buyer and Seller need to agree in writing that the margin scheme will be used – **So put it in the contract of sale!**

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Residential Transactions & GST

Types of Residential Properties
- New residential
- Residential "off the plan"
- Existing Residential

What makes a property "new"?
- Never been sold as residential before
- Been created through "substantial" renovation
- New building replaces demolished building

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Residential Transactions & GST

On "new" property:
- Claim GST on purchases to sell new property (e.g. real estate fees)
- GST is applicable on the Sale
- OR apply the Margin Scheme

Off-the Plan:
- GST on purchase of property at settlement
- If "right" sold before settlement no GST applicable unless this was your intention

Existing Residential Property – no GST applicable

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What is a "substantial renovation"

Substantial renovations occur where all or substantially all of a building is removed or replaced. They must directly affect most rooms in the house.

Renovations can be structural & include:
- Foundations, Supporting Walls, Roof and Staircases etc

What isn't a substantial renovation on its own:
- Replace wiring, Non-supporting walls, Plastering or rendering walls, Replacing kitchen & bathroom cupboards, Cosmetic e.g. painting, sanding floors, light fittings, curtains & carpets, Additions, Landscaping

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Commercial Property & GST

Commercial Properties are shops, factories & offices

If leasing these premises & your **turn-over** is more than $75,000 you are **required** to register for GST & charge your tenants.

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Commercial Property & GST

Purchase of Commercial Property:

- If seller is registered for GST & you (the purchaser) intend to use building in your GST registered business you can claim GST credit on purchase
- If the seller applied the margin scheme you can't claim GST
- Most sellers use "going concern" & is sold GST free

Sale - May be eligible for margin scheme
- Going Concern

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Capital Gains Tax (CGT)

What is Capital Gains Tax?

- Capital Gains Tax is not a special tax rate
- Taxed at the taxpayer's marginal rate
- Capital losses can only be offset against capital gains
- CGT and GST are mutually exclusive, (except Commercial Property)

Discounts and Exemptions may apply

- Principal Place of Residence
- General Discount
- Small Business Concessions

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CGT & Principal Place of Residence

- What constitutes PPR or main residence?
- Can only have one PPR at a time
- PPR includes House & 2Ha or 5 Acres of land
- When is ownership? (contract date to contract date)
- Moving PPR from one to another - 6 month crossover period can be applied
- Continuing PPR Status (six year rule)
- PPR used partly as place of business - Any income producing activity may affect entitlement e.g Home Business, Rental etc.

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CGT & General Discount

To get the General Discount

- Must hold the asset for at least 12 months – contract date to contract date
- Must be an Australian tax resident at time of disposal (contract date)
- Companies are not eligible

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CGT & Small Business Concessions

Only available if being sold as part of a small business

15 year exemption

- Asset continuously owned for 15 years, over 55, retiring – no assessable gain

Active Asset

- 50% reduction in taxable gain – can be applied with general discount to reduce gain to 25%

CGT & Small Business Concessions

Replacement Asset Rollover

- Use the proceeds to buy another active asset and only pay tax when the second asset is sold (2 years to buy the new asset)

Retirement Exemption

- $500,000 lifetime cap, under 55's must pay into superannuation

CGT & Inherited Property

Main Issue is when did deceased purchase property:

Pre 20 September 1985 (pre CGT)

- Pre CGT property left to beneficiary under Will is deemed to have been acquired on date of death of the deceased at market value.
- If sold within 2 years of death exempt from CGT

Post 20 September 1985 (post CGT)

- Post CGT property left to beneficiary under Will is deemed to have been acquired on same date that the deceased acquired it.

CGT & Inherited Property

Death of a Joint Tenant

- Deceased persons interest in a property passes to the survivor by operation of law.
- Survivor deemed to have acquired the property on the same date the deceased acquired it.

Property awarded on Divorce

- Acquirer of the property is deemed to have acquired it on the same date as the spouse.

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CGT & Pre-CGT Assets

Building on Pre CGT Land:

- Building is treated as a separate asset
- Proceeds of sale of land and building are apportioned between the building and the land

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CGT & Subdivision

- Capital Gain occurs when you sell, not when you subdivide
- Relevant date for the subdivided blocks is the date you acquired the original parcel of land and the cost base of the original land is divided between the subdivided blocks on a reasonable basis
- If you subdivide the land on which your PPR sits, you will lose the PPR exemption for any block sold separate to the PPR

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CGT & Trusts

1. Trust offsets capital losses made against capital gain.
2. Then applies any discounts it may be eligible for.
3. Discounted gain is distributed to the beneficiaries who:
    a. Gross up the gain,
    b. Apply any personal capital losses they have against the capital gain
    c. Reapply any of the discounts they are eligible for
    d. Apply any revenue losses

Beneficiaries usually claim the same discounts as the trust.

*Corporate beneficiaries and the general discount are a key exception to this rule

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Taxation

Action Required:

Who do I need to contact?

Time Frame: