

Chapter 1

OVERVIEW, CHECKLISTS AND RATES

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¶1-000 Introduction

The federal and various state-based taxation systems in Australia provide certain tax concessions for small business taxpayers. The primary concessions which are available may be separated into the following general areas:

- CGT small business concessions
- GST concessions
- payroll tax concessions
- FBT concessions
- income tax concessions, and
- superannuation concessions.

The concept of a “small business entity” is generally used as a requirement for determining whether an entity can access the federal tax concessions. However, additional criteria may need to be satisfied in order to gain access to the particular concessions.

An entity will constitute a small business entity where:

- it carries on a business, and
- it satisfies the aggregated turnover test of \$10m.

The definition is modified to have an aggregated turnover test of \$5m for the purpose of applying the tax offset for non-corporate small business income.

Further, for the purpose of applying the CGT small business concessions the concept of a CGT small business entity applies. A CGT small business entity is a small business entity that satisfies a \$2m aggregated turnover test.

The small business entity tests and its application are outlined in Chapter 2.

The payroll tax system, being a state and territory based tax system, does not use the concept of a small business entity. In general, the payroll tax provisions determine a taxpayer's eligibility for the concessions by using a threshold value for the annual "wages" paid.

While the concept of a small business entity is essential for determining whether a taxpayer is potentially entitled to the small business tax concessions, additional conditions generally need to be satisfied to apply the particular concessions. In some circumstances, the only additional condition is for the taxpayer to choose to apply the concession.

¶1-100 Checklist of the small business concessions

The purpose of this book is to provide a comprehensive and practical guide to the small business tax concessions by:

- outlining the various concessions available to small business taxpayers
- explaining the conditions that must be satisfied to access the concessions, and
- demonstrating the manner in which the rules apply in practice.

There have been changes to the concessions and their application over time. To enable the book to be concise and relevant the book generally focuses on the rules as they apply at the start of the 2017/18 income year, unless specifically stated otherwise.

The different tax exemptions and concessions that apply to small businesses are detailed in the following checklists. For details on the applicable concessions see the relevant cross-references.

CGT small business concessions

- An exemption from CGT may apply for capital gains made in relation to active assets held for at least 15 years pursuant to the CGT 15-year exemption (¶4-100).
- Capital gains made in relation to active assets may be discounted by 50% pursuant to the CGT small business 50% reduction (¶4-300).
- Capital gains made in relation to active assets may be exempted by taxpayers up to respective lifetime limits pursuant to the CGT retirement exemption (¶4-400).
- Capital gains from active assets may be rolled over for at least two years or longer if replacement assets are acquired pursuant to the CGT small business roll-over (¶4-600).
- A roll-over from CGT and income tax may be available for restructures of small business entities pursuant to the small business restructure roll-over (¶4-800).

Income tax

- A roll-over from income tax may be available for restructures of small business entities pursuant to the small business restructure roll-over (¶4-800).
- Companies that are small business entities are entitled to a lower corporate tax rate of 27.5% (¶9-050).
- Individual taxpayers with business income from an unincorporated business that has an aggregated turnover of less than \$5m will receive an 8% tax discount (¶9-060).
- Small business entities are entitled to an immediate deduction for professional establishment expenses (¶9-080).
- Small business entities are entitled to an immediate write-off for assets costing less than \$20,000 first used or installed ready for use between 7.30 pm on 12 May 2015 and 30 June 2018. Pooling is available for depreciating assets of a cost of \$20,000 or more (¶9-100).
- Small business entities with trading stock of less than \$5,000 need not bring their stock to account, and any change in the value of trading stock need not be brought to account until the change exceeds \$5,000 (¶9-200).
- Certain tax concessions are available for investments made in innovation companies (¶9-300 and ¶9-350).
- Prepayments made by small business entities are entitled to concessional treatment (¶9-400).
- A small business entity will generally be eligible for a two-year amendment period for tax assessments instead of the standard four years (¶9-700).

Goods and services tax

- Small business entities may lodge simplified business activity statements to report GST (¶6-010).
- Small business entities may use the cash basis of accounting for GST purposes (¶6-100).
- Small business entities can elect to lodge returns annually and pay GST by quarterly instalments (¶6-300).
- A small business entity can apportion GST input tax credits on an annual basis for acquisitions and importations that are partly creditable (¶6-500).

Fringe benefits tax

- Car parking provided by small business entities that are employers may be exempt from FBT where parking is provided on the business premises (¶9-500).
- Small business entities may be entitled to an FBT exemption for multiple portable electronic devices provided to an employee during an FBT year (¶9-570).

PAYG

- Small business entities are eligible to pay PAYG instalments based on GDP-adjusted notional tax (¶9-600).

Payroll tax

- Employers with payroll less than the specified thresholds, varying from state to state, are exempt from payroll tax (Chapter 7).

Superannuation

- Employers are able to claim tax deductions for superannuation contributions made for the benefit of their employees (¶8-200).
- Individuals may claim tax deductions for certain personal contributions made to a complying superannuation fund (¶8-240).
- A taxpayer that has accessed the CGT small business concessions may make additional contributions up to the lifetime CGT cap into a complying superannuation fund without counting towards the taxpayer's annual concessional cap and the annual non-concessional contribution cap (¶8-500).
- There are tax planning opportunities for small business taxpayers to transfer certain business assets into a complying superannuation fund (¶8-600).
- There is ability of a taxpayer to receive concessional tax superannuation benefits in accordance with the transition to retirement rules, without being required to retire from the workforce (¶8-700).

¶1-500 Checklist of key terms

This alphabetical checklist briefly explains the meaning of a number of key terms used in this book, with cross-references to further explanations.

Active asset: An asset that is used, or held ready for use, in a business and not otherwise excluded	¶3-600
Active asset test: A basic condition that must be satisfied for the CGT small business concessions to apply	¶3-610
Affiliate: An individual or a company that acts, or could reasonably be expected to act, in accordance with another entity's directions or wishes, or in concert with that entity, in relation to the affairs of the business of the individual or company	¶2-080
Aggregated turnover: The sum of the annual turnovers of the taxpayer, an entity that is connected with the taxpayer and an entity that is an affiliate of the taxpayer	¶2-050

Aggregated turnover test: A taxpayer can satisfy the aggregated turnover test in three ways, being based on its turnover for the previous year, its likely turnover for the current year or its actual turnover for the current year	¶2-040
Australian Business Number (ABN): A number used to identify a business which also serves as the GST registration number for registered entities	¶5-130
Basic conditions: The conditions that must be satisfied for any of the CGT small business concessions to apply	¶3-200
CGT 15-year exemption: Allows a taxpayer to disregard the whole of a capital gain where the asset has been held for at least 15 years and certain conditions are met	¶4-100
CGT 50% small business reduction: Allows a capital gain to be reduced by 50% where a taxpayer satisfies all of the basic conditions for CGT small business relief	¶4-300
CGT concession stakeholder: A significant individual in a company or trust or a significant individual's spouse who has a small business participation percentage in the company or trust that is greater than zero	¶3-870
CGT general discount: A CGT discount (being 50% for resident individuals and trusts) available to certain resident taxpayers that may be applied to capital gains made on assets that have been held for at least 12 months prior to the CGT event	¶4-340
CGT retirement exemption: Allows a taxpayer to choose to disregard a capital gain from a CGT event based on an individual's lifetime limit of \$500,000	¶4-400
CGT small business entity: A small business entity that satisfies the \$2m aggregated turnover test	¶2-025
CGT small business roll-over: Allows a capital gain to be deferred, but where a replacement asset is not acquired within the replacement asset period, the capital gain is until the end of the replacement asset period ..	¶4-600
Connected with: An entity is connected with another entity if either entity controls the other entity or both entities are controlled by the same third entity	¶2-070
Fourth element expenditure: Capital expenditure that is included in the fourth element of the cost base of a CGT asset, ie to increase or preserve the asset's value or relating to installing or moving the asset	¶4-680
GST cash accounting: Under the cash basis of accounting, supplies and acquisitions made by an entity are attributed to the tax period in which the entity receives cash or pays cash respectively	¶6-100
GST registration: Only an entity that is carrying on an enterprise can register for GST. An enterprise includes all types of business activities but not activities of employees	¶5-100
GST return: An entity that is registered must give the Commissioner a GST return for each tax period applying to that entity	¶5-400
Input tax credit: A credit for the GST payable on business inputs which a small business entity registered for GST can claim	¶5-050
Look-through earnout right: An earnout right in relation to the disposal of a CGT asset that meets certain requirements and gives rise to look-through CGT treatment	¶3-910

Margin scheme: This allows the GST payable on the sale of real property to be calculated on the margin for the supply instead of the full consideration	¶8-600
Maximum net asset value test: The sum of the net values of CGT assets of the taxpayer, any entities connected with the taxpayer and any affiliates of the taxpayer or connected entities must not exceed \$6m	¶3-420
Passively held CGT asset: An asset that is used to derive passive income of the owner but is used in carrying on the business of an affiliate or connected entity of the owner	¶3-245
Replacement asset period: Where the CGT small business roll-over happens in relation to the disposal of a CGT asset, the period starting one year before the last CGT event in the income year of the roll-over, and ending at the later of (i) two years after that last CGT event and (ii) where the CGT event occurred due to a look-through earnout right, six months after the latest time a possible financial benefit becomes or could become due under that right in relation to the asset	¶4-625
Self managed superannuation fund (SMSF): A fund with fewer than five members where all members must be trustees, or directors of the trustee company, regulated by the ATO	¶8-600
Significant individual test: The significant individual test must be satisfied for a company or trust to be able to apply the CGT retirement exemption	¶3-800
Small business restructure roll-over: Roll-over relief from CGT and income tax for the transfer of an asset as a part of a change of legal structure without a change in the ultimate economic ownership of the assets	¶4-800
Small business entity: An entity that carries on a business and satisfies the \$2m aggregated turnover test	¶2-020
Spouses: Includes a legally married couples, de facto partners and members of a same sex couple living together on a genuine domestic basis	¶2-050
Transition to retirement (TTR): The transition to retirement rules allow a person to receive superannuation benefits without having to retire	¶8-700

¶1-700 Key rates, tables and thresholds

The following provides a summary of the relevant tax rates and thresholds for applying the small business concessions in 2017/18 (unless otherwise stated). For more detailed information please see ¶9-050.

Income tax

<i>Income Year</i>	<i>Concessional income tax rate</i>	<i>Threshold for concessional rate</i>
2016/17	27.5%	\$10m
2017/18	27.5%	\$25m
2018/19	27.5%	\$50m

CGT small business concessions

<i>CGT small business concessions</i>	<i>CGT basic condition</i>	<i>Threshold</i>
All concessions	Maximum net asset value test	Up to \$6m

<i>CGT small business concession</i>	<i>Term</i>	<i>Value</i>
CGT retirement exemption	Lifetime CGT exempt amount	\$500,000

Small business entities

<i>Definition</i>	<i>Aggregated turnover threshold</i>	<i>Concessions available</i>
Small business entity	\$10m	<ul style="list-style-type: none"> ● Small business restructure roll-over ● Deduction for professional establishment expenses ● Simplified depreciation provisions ● Simplified trading stock provisions ● Prepayment concessions ● Two-year amendment period ● GST cash accounting ● Annual GST reporting ● Simplified BAS ● PAYG instalments on GDP-adjusted basis
Small business entity (modified)	\$5m	<ul style="list-style-type: none"> ● Unincorporated small business income tax offset
CGT small business entity	\$2m	<ul style="list-style-type: none"> ● CGT 15-year exemption ● CGT small business 50% reduction ● CGT retirement exemption ● CGT small business roll-over

Superannuation

<i>Superannuation cap</i>	<i>Cap for 2017/18</i>
Concessional contributions cap	\$25,000
Non-concessional contributions cap	\$100,000
CGT cap	\$1.445m