

Update: Small Business CGT Concessions Widened



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Summary

The small business CGT concessions will be easier to obtain from 1 July 2007.

This will be good for most small businesses, but we see difficulties for farmers trying to take advantage of the same concessions.

What's changed?

As part of the 2006-07 Budget, the treasurer announced changes to increase access to the small business CGT concessions. The more significant changes are:

- Simplified tax system ("STS") taxpayers will not have to satisfy the net assets threshold, which used to be \$5M.
- For all other taxpayers, the net assets threshold will be increased to \$6M.
- Within the group assessed for the net assets threshold, positive equity in one entity will be able to be netted off against negative equity in another.
- The threshold for the STS will be increased from \$1M to \$2M.

What are the benefits?

For STS taxpayers (who have an annual turnover of less than \$2M on a rolling three year basis) the level of assets becomes irrelevant for the small business CGT exemptions. We see this especially benefiting businesses that would have

been disqualified because of the assets of connected entities and affiliates.

Other businesses benefit from the increased threshold of \$6M.

Businesses with connected asset-rich entities, especially farming concerns, will welcome the chance to net off positive and negative equity within the group.

What are the problems?

As with a lot of legislation by press-release, the devil may well turn out to be in the detail. No amending Bill has been released.

We also see a particular problem for farming businesses, where the land owning entity is very likely to be different to the trading entity. We are aware of some political pressure to remedy this, but the final result remains to be seen.

Lastly, for non-STS taxpayers there is no relief from the onerous requirement to count assets of connected entities and small business affiliates.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted mail as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to fmlaw@flemingmuntz.com.au.

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