Proof 01 · 08/27/21

Examples

Example 1: fully exempt – deceased acquired the dwelling on or after 20 September 1985 and beneficiary sold it within two years of death

Rodrigo is the sole occupant of a flat he bought in April 1990. He has only ever lived in it and not used it to produce income.

Rodrigo dies in January 2018. He leaves the flat to his son, Petro. Petro initially rents out the flat, and then sells it 15 months after his father died.

Petro is entitled to a full exemption from CGT. This is because Rodrigo lived in it when he died and Petro disposed of it within two years of his father's death.

Example 2: partial exemption – main residence of deceased but then rented out for more than two years after death by beneficiary

Lucy buys a home on 1 April 1997 for $250,000. It is her main residence from the time she acquires it until her death on 31 March 2009 (a total of 4,383 days). The property then passes to her beneficiary, Amy.

Amy lets the home as a rental property throughout her ownership period. After eight years she decides to sell. Amy sells the rental property for $685,000 on 30 June 2017 (3,014 days after Lucy's death).

The acquisition cost of the property for Amy is its market value at Lucy's date of death, which was $258,000. This is because it:

- passed to Amy after 20 August 1996
- was Lucy's main residence immediately before her death
- was not producing income at Lucy's date of death.

Amy will need to declare the capital gain as follows:

- calculate CGT
  - sale price $685,000
  - acquisition cost (total cost base) $258,000
- deduct cost base from sale price
  - total capital gain $427,000.

Amy's taxable portion of the capital gain is calculated as:

capital gain amount × (Non-main residence days ÷ total days).

The Non-main residence days is the number of days (if any) Lucy and Amy used the dwelling to produce income, which is 3,014 (0 for Lucy and 3,014 for Amy). Total days is the number of days Lucy and Amy owned it, which is 7,397.

Amy's capital gain is:

$427,000 × 3,014 ÷ 7,397 = $173,986.

However, Amy can use the CGT discount method to reduce her capital gain by 50%. This reduces her capital gain to $86,993.

Example 3: partial exemption – inherited rental property – main residence of beneficiary

Vicki buys a house for $400,000 on 12 February 1995 and uses it solely as a rental property. She dies on 17 November 1998 (owning the home for a total of 1,375 days). The house then passes to her beneficiary, Lesley, who uses it as his main residence.

As the property was purchased by Vicki after 20 September 1985 and used solely for income producing purposes, Lesley's acquisition cost is Vicki's cost base on the day she died of $408,000. The cost base includes $400,000 + legal fees and solicitor fees on selling.

Lesley later sells the property for $650,000 on 27 November 2018. He has owned it for a total of 7,316 days.

As the house was not Vicki's main residence just before she died, Lesley can't claim exemption from CGT for the period Vicki used the house to produce income. However, Lesley is entitled to exemption from CGT for the period he used the house as his main residence. This is throughout his ownership period of 7,316 days only.

Example 4: partial exemption – Main residence deceased – rental property and main residence beneficiary

Mary acquires a dwelling on 1 June 2002 for $650,000. It is her main residence until she dies on 31 August 2007 (a total of 1,918 days). Her son, Steve, inherits the dwelling and rents it out.

After renting the dwelling until 31 August 2010 (a total of 1,097 days), Steve begins living in it as his main residence. On 31 August 2019, he sells it for $900,000 (owning it for a total of 3,288 days).

Mary acquired this main residence after 19 September 1985 and did not use it to produce income. Upon her death, the dwelling passed to Steve as a beneficiary after 20 August 1996. Therefore, Steve is taken to have acquired the dwelling at its market value of $720,000 at the time he first used it to produce income.

The house was Mary's main residence just before she died, and Steve used the property as his main residence as well as a rental property. Steve can't claim exemption from CGT for the period he used the house to produce income. However, he can claim an exemption from CGT for the period Mary and Steve used the house as their main residence in their ownership period.

This is a general summary only

For more information, go to ato.gov.au/deceasedestatescgt or speak to a registered tax professional.
Go to ato.gov.au/rental, watch our short videos at ato.gov.au/rentalvideos, download our free Rental properties guide at ato.gov.au/rentalpropertyguide, read our Guide to capital gains tax at ato.gov.au/cgtguide

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