



# Simpler super – selling or transferring assets

Describes how a capital gains tax (CGT) event can be triggered if you sell or transfer an asset to make a contribution to your super fund between 10 May 2006 and 30 June 2007.

## HOW CGT MIGHT APPLY

You can contribute up to \$1 million of non-concessional contributions to your super fund between 10 May 2006 and 30 June 2007 without being liable for the new excess non-concessional contributions tax that applies in that transitional period.

As a result, you may:

- sell assets to generate cash to make contributions to your super fund, or
- contribute assets rather than cash to your super fund – known as an ‘in specie’ contribution.

In either situation, you will trigger a CGT event when you:

- sell the asset, or
- transfer the asset to your super fund.

Even if you receive no capital proceeds from the CGT event, you may be taken to have received the market value of the asset at the time of the CGT event. Some capital gains – such as a capital gain you make on your family home – may be disregarded.

In some cases, your self managed super fund (SMSF) may not be allowed to acquire the asset from you. For example, residential investment properties cannot be transferred to a super fund – refer to ‘In-specie’ contributions on this page.

You should seek professional advice if you are planning to sell or transfer an asset to take advantage of the \$1 million transitional non-concessional contributions cap.

You should also ensure that funds are set aside to meet any CGT liability you incur from selling or transferring assets to your super fund.

## SELLING SMALL BUSINESS ASSETS AND CGT

When making contributions between 10 May 2006 and 30 June 2007, you can choose to exclude amounts from the disposal of small business assets from your \$1 million cap – effectively allowing you to exceed the cap.

However, these excluded contributions are limited to the CGT cap of \$1 million.

➤ For more information about the exclusion of small business assets, refer to *Simpler super – exclusion from the transitional non-concessional contributions cap* (NAT 70645).

## ‘IN-SPECIE’ CONTRIBUTIONS

Generally, trustees of SMSFs are prohibited from acquiring assets from related parties – such as fund members, their family, and partners, related companies and trusts. However, there are some exceptions.

Therefore, if you’re a member of a SMSF you should not contribute your own assets or assets of your associates unless the asset is:

- business real property (used exclusively for the running of a business), for example a warehouse you conduct your business from
- a listed security (such as shares in companies listed on the stock exchange), or
- an in-house asset, for example an investment in a related party. The market value of in-house assets cannot exceed 5% of the total market value of assets held by the fund.

Each of the assets must be acquired by the SMSF at market value.

❗ You **cannot** transfer a residential investment property to your SMSF. It is not covered by the above exceptions.

The transfer of an asset 'in-specie' is a CGT event as the transfer is a disposal. You may make a capital gain or loss from the CGT event according to the usual CGT provisions that apply to that asset.

If you make an 'in-specie' transfer, CGT may still be payable as you may be taken to have received the market value of the asset at the time of the CGT event.

Depending on the situation, a market valuation may be undertaken by either a qualified valuer or a person without formal qualifications. In any case, the person who conducts the valuation must base their valuation on reasonably objective and supportable data.

Use of a qualified valuer should be considered where the value of the asset represents a significant proportion of the fund's value or where the nature of the asset indicates that the valuation is likely to be complex or difficult.

#### MORE INFORMATION

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We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

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If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

#### **The information in this publication is current at March 2007.**

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