

● SMALL BUSINESS CGT CONCESSIONS

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Small business owners who sell business assets may be eligible to contribute the proceeds into superannuation to help fund their retirement.

BENEFITS

- Investing in superannuation boosts your savings to help meet your retirement goals.
- A special concessional rate of tax applies to superannuation fund earnings whereas earnings from non-superannuation investments are generally taxed at marginal tax rates which may be typically higher.
- Your tax-free component will increase. This amount can be withdrawn tax-free and is also tax-free if paid to a non-tax dependent (such as an adult child) after your death.

HOW IT WORKS

Rather than saving for retirement during their working lives, many small business owners instead use surplus funds to grow their business. The Capital Gains Tax (CGT) cap exists to allow small business owners to make large contributions into superannuation once business assets have been sold.

To be eligible to use the CGT cap, you must first be eligible for a small business CGT tax concession.

QUALIFYING FOR THE SMALL BUSINESS CGT CONCESSIONS

To be eligible for the small business CGT tax concessions, the following basic conditions must be met:

- The net value of assets owned by your business and related entities is less than \$6 million, or the (aggregated) turnover of the business is less than \$2 million each year.
- The asset being sold being used in running a business or it is held ready to be used in running a business (ie is an active asset).
- If the asset being sold is a share in a company or an interest in a trust, there must be a 'significant individual' and the entity claiming the concession must be a 'CGT concession stakeholder' of the company or trust.

If you meet the basic conditions, you are automatically eligible for the 50% active asset reduction which enables you to reduce the capital gain from the sale of a small business active asset by 50%. It is not compulsory to claim this concession, and in fact, it can sometimes be beneficial not to claim it as it can reduce the amount that can be contributed into superannuation using the CGT cap.

The following table outlines other CGT tax concessions which are available but which have further eligibility conditions attached.

Concession	Detail
15-year exemption	If the business asset being sold had been owned for at least 15 years, the entire capital gain may be exempt from tax under the 15-year exemption. The entire sale proceeds can be contributed into superannuation using the CGT cap (up to the lifetime limit).
\$500,000 retirement exemption	Up to \$500,000 (lifetime limit) of assessable capital gain can be exempted from tax using the retirement exemption. If you are under age 55 you must contribute this amount to superannuation. If you are over age 55 you can take it in cash or choose to contribute it to superannuation. The superannuation amount is contributed under the CGT retirement cap.

CONTRIBUTING THE PROCEEDS INTO SUPERANNUATION

The amount you can contribute into superannuation is limited by contribution caps. The CGT cap enables small business owners who are eligible for CGT tax concessions to contribute larger amounts into superannuation closer to retirement.

The CGT cap provides a lifetime limit. This is made up of contributions from the retirement exemption, an asset eligible for the 15-year exemption and, an asset that would otherwise qualify for the concessions but is pre-CGT asset or was sold at a capital loss.

To use the CGT cap, you need to make the contribution by the later of the date you lodge your tax return or 30 days after receiving sale proceeds. At the time of making the contribution you need to complete a 'Capital Gains Tax election form' and give it to the superannuation fund.

WHAT YOU NEED TO CONSIDER

- As the CGT cap is a lifetime limit, in some cases it may be beneficial to use the non concessional contribution cap first and retain the CGT cap for future use.
- The eligibility criteria for the small business CGT concessions are complex and you must seek tax advice to determine your eligibility.
- Time limits apply to be eligible to use the small business CGT concessions and the CGT cap.
- If you exceed your CGT cap, the excess contributions will count towards your non concessional contribution cap.
- All contributions to superannuation are preserved until you meet a condition of release.
- Fees may be charged for your superannuation contributions. You should check the details in the fee section of your Statement of Advice and the Product Disclosure Statement (PDS) for your superannuation fund.

REFERENCES



You may wish to refer to the following websites for further information about small business CGT concessions:

- www.ato.gov.au

The information in this document is of a general nature and does not take into account your own financial objectives, circumstances or needs. You should consider your own personal situation and requirements before making a decision.

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