



Monthly Information Newsletter – Tax & Super

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Two “main residences” is possible

The CGT exemption for a person’s home is only available in respect of one home owned at any given time. In other words, you can’t get two main residence exemptions applying to two different homes at the same time.

However, there is one exception to this rule – and that exception applies where a person has bought a new home before selling the old one. In this case, both homes can be entitled to the main residence exemption for an “overlap” period of up to six months.

But if the homeowner takes longer than six months to sell or dispose of the original home, a partial exemption will apply to one or other of the homes for the period in excess of six months. Generally, this will be the home that wasn’t the person’s main residence during this “excess period”.

However, a number of important conditions must be met in order to be able to use this concession in the first place – and this is where the guidance of your tax adviser is needed.

There is another important “overlapping” area in which the principles of not having two CGT-exempt main residences at the same time applies, and that is where “spouses” may have different main residences at the same time. Typically, this maybe where one spouse lives in their country or coastal home, while the other lives in their apartment in the city or interstate for work purposes (on a weekly or monthly basis, say).

But it also importantly includes the case where a couple start living together in a married or de-facto relationship, while one of the spouses retains their existing home and rents it (and therefore can apply a CGT concession to continue to treat it as their home).

Where this type of situation occurs there is a special rule that applies. The spouses must either:

- choose one of the homes to be the CGT-exempt main residence of both of them for this period; or
- each must choose the respective homes in which they live as their main residence – in which case generally they will

each only get a half exemption on the home they choose for that overlap period.

These rules are complex and depend on a range of matters including the legal interest each spouse holds in each home, the use of any CGT concessions and, in certain cases, the thorny issue of whether the parties are in fact “de-facto” partners. Suffice to say, professional advice is very much needed in this type of situation.

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