
Modifying the cost base example

Below are examples adapted from the EM of how the cost base of an asset is to be modified and the outcomes for taxpayers. As can be seen by reference to the examples, a number of matters become clear:

- > The deemed sale and re-acquisition of pre 12 May 2026 assets, creates a cost base for the asset moving forwards which is subject to indexation in the relevant taxpayers hands (where they can access indexation).
- > The nature of the gains needs to be identified and preserved when distributed to the beneficiaries. This means discounted gains are gross up before applying losses etc at the personal level.
- > Similar to the existing rules, where capital gains are distributed to a corporate beneficiary and no CGT discount is available, there is no ability to access the indexation when determining the income of the company.

The examples do not take into consideration any of the proposed trust taxation changes.

Modifying the cost base - Individual

- > Otis, an Australian resident, purchases shares in January 2020 for \$100,000 and sells them on 1 March 2029 for \$160,000. The total economic gain is \$60,000.
- > The deemed capital proceeds for the deemed disposal on 30 June 2027 is \$120,000. This results in a notional gain of \$20,000. The taxing point is deferred until the shares are sold in the future.
- > Otis sells the shares on 1 March 2029 for \$160,000 (the realisation event) with the increase in value between 1 July 2027 and 1 March 2029 being \$40,000.
- > The \$40,000 capital gain is subject to tax under the new law (the cost base of the shares is subject to indexation and may incur a minimum tax on the capital gain).
- > The deferred gain (\$20,000 – pre CGT discount) and the capital gain on the realisation event are included in working out Otis' net capital gain for the 2029-30 income year.

Modifying the cost base - Trusts

- > The trustee of the XYZ trust acquires shares for \$100,000 in 2022 and sells them for \$300,000 in 2032. All of the beneficiaries of the XYZ trust are Australian resident individuals or companies. The economic gain being \$200,000.
- > The deemed capital proceeds for the deemed disposal on 30 June 2027 is \$180,000. This results in a notional gain of \$80,000. The taxing point is deferred until the shares are sold in the future.

- > At the time of the realisation event, the Trustee recognises two capital gains:
 - The initial notional gain of \$80,000 (discountable).
 - The realisation event gain - initial cost base of \$180,000 with indexation taking the cost base at the time of the realisation event to \$200,000. The separate indexed capital gain is \$100,000.
- > The Trustee makes Ishaan (a resident individual) and VP Pty Ltd (Australian resident company) each specifically entitled to 50% of the gains. The impact for the beneficiaries is as follows:

Ishaan

Ishaan first works out his attributable gains under 115-225 as:

- > $\$80,000 \times 50\%$ (discount applied by the trustee) $\times 50\%$ (Ishaan's share) = \$20,000; and
- > $\$100,000 \times 50\%$ (Ishaan's share) = \$50,000.

Ishaan does not re index the cost base for the capital gain from the realisation event, as indexation has already been applied at the trust level.

Ishaan then includes those capital gains in working out if he has made a net capital gain for the income year, noting that he needs to gross up the discounted gain to then apply any capital losses he has.

VP Pty Ltd

VP Pty Ltd is not entitled to indexation or the CGT discount and therefore needs to recalculate as if it had been calculated without indexation.

VP Pty Ltd first works out its attributable gains under section 115-225 as:

- > $\$80,000 \times 50$ per cent (discount applied by the trustee) $\times 50$ per cent (its share) = \$20,000; and
- > $\$120,000$ (being $\$300,000 - \$180,000$) $\times 50$ per cent (its share) = \$60,000.

As VP Pty Ltd is not entitled to the CGT discount it is deemed to have a capital gain of \$40,000 (the \$20,000 attributable gain is doubled to remove the discount applied at the trust level); and

- > A capital gain of \$60,000 for the realisation event.

The Trustee must provide the beneficiaries with a notification, setting out the amount of the gains each beneficiary is treated as having, and in this case, which capital gains are discount capital gains.

As always please reach out to your Engagement Partner to discuss how these changes will affect your individual circumstances.