

Selling up? Watch out for CGT

The reasons why small businesses accessing the CGT concessions are coming under tax office scrutiny

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If you're selling your business, the CGT small business concessions have the capacity to reduce your capital gains tax liability to \$0. Understandably, the tax savings that can be achieved make the concessions very popular with business owners. However, the extent of the tax savings also means that the concessions come under close Tax Office scrutiny. Quite a few taxpayers have been stung with very large and unexpected tax bills because they claimed the concessions but did not pass the eligibility tests.

There are a number of rules and conditions that a small business and their owners need to meet to be able to access the concessions. One of the main eligibility requirements is the \$6 million maximum net asset test (although an alternative \$2 million turnover test is available in some circumstances). This test requires that the combined value of the assets of the business, any connected entities, any affiliates and any entities connected to the affiliates, is less than \$6 million.

The \$6 million maximum net asset test applies at the time when the CGT event occurs (generally when the contract of sale is entered into), so you need to satisfy yourself, and be able to substantiate to the Commissioner if you are audited, that your net assets were less than the \$6 million threshold at that time.

Certain assets such as the family home, some personal assets, and your superannuation are not counted toward the threshold. With some of your assets it should be reasonably easy to calculate their value. Other assets such as privately held businesses or listed securities can provide greater problems.

The risk with listed securities is where there is volatility in their value and you are near the \$6 million threshold. Because your position is counted at the time of the CGT event, if you hold listed securities and there is a spike in their value at this time, then you could breach the threshold. The value of these assets is on public record and this is an area you need to be careful about if you are near the maximum limit.



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