



Subdividing land – Will you have to pay capital gains tax?

If you own a block of land and are thinking of subdividing it into two or more separate blocks, remember this can affect the amount capital gains tax (CGT) you pay when you dispose of the subdivided blocks.

The process of subdivision will not result in any capital gains tax liability as long as you continue to own the subdivided blocks. However, you may make a capital gain or capital loss when you sell or give away any of the blocks.

You also divide the costs incurred in acquiring and subdividing the land across the subdivided blocks on a reasonable basis.

You may know that your home is usually exempt from capital gains tax due to the main residence exemption. If you subdivide land surrounding or adjacent to your home, it does not qualify for the exemption if you sell it separately from the home.

Example:

Kim bought a house on a 0.2 hectare (or 2,000 square metre) block of land in June 2003 for \$350,000. The house was valued at \$120,000 and the land at \$230,000. When purchasing the property, Kim incurred \$12,000 in stamp duty and legal fees. Since the purchase, Kim lived in the house as her main residence.

Kim found the block was too big for her to maintain. In January 2005, she subdivided the land into two blocks. She incurred \$10,000 in survey, legal and subdivision application fees and \$1,000 to connect water and drainage to the rear block. In March 2005, she sold the rear block for \$150,000.

As Kim sold the rear block of land separately, the main residence exemption does not apply to that land. She contacted several local real estate agents who advised her that the values of the front and rear blocks were the same. Therefore, Kim apportioned the original cost of the land (\$230,000) equally between the two blocks (\$115,000 each). Kim incurred \$3,000 legal fees on the sale.

Kim works out her capital gain by adding together costs she incurred that form the cost base of the rear block, and taking this amount away from the sale price, as follows:

Cost of the land	\$115,000
50% of \$12,000 stamp duty and legal fees on purchase	\$6,000
50% of the \$10,000 cost of survey, legal and subdivision application fees	\$5,000
Cost of connecting water and drainage	\$1,000
Legal fees on sale	\$3,000
Total cost base	\$130,000

The capital gain on the sale of the rear block is calculated as follows:



Sale Price	\$150,000
Less	
Cost base	<u>\$130,000</u>
Capital gain	<u>\$20,000</u>

As Kim owned the land for more than 12 months, she can reduce her \$20,000 capital gain by 50%, after deducting any capital losses she made from other assets.

When Kim sells her home, being on the front block, she will get the full main residence exemption for it if she uses it solely as her main residence during all of her period she owns it.

Special rules

If the block you are subdividing was purchased or given to you before 20 September 1985, capital gains tax does not generally apply. However, if after that date, you had a building (such as a house) constructed on the land or made major renovations to the property, they may be subject to capital gains tax when sold.

You may make a profit from the subdivision and sale of land which occurred in the ordinary course of your business or which involved a commercial transaction or business operation entered into with the purpose of making a profit. In this case, the profit is ordinary income. If you need advice about this, you should seek help from a registered tax agent.

More information

The Tax Office has publications and tools available to help you. The new *capital gains property exemption tool* is available on the Tax Office's website www.ato.gov.au/individuals and helps you work out what proportion of any capital gain or loss is subject to CGT when you dispose of the property.

Publications including *Rental properties guide*, *Guide to capital gains tax*, and fact sheets such as *Subdividing land* and *Subdividing and amalgamating land* can be downloaded from the Tax Office website www.ato.gov.au/individuals or you can call the Tax Office on **1300 720 092** to have a copy sent to you.

If you have any questions relating to your circumstances you can call the Tax Office on **13 28 61**.