

POLICY BULLETIN

CHANGES TO CGT MAIN RESIDENCE EXEMPTION FOR FOREIGN RESIDENTS

7 January 2020

IN BRIEF

- The [Treasury Laws Amendment \(Reducing Pressure on Housing Affordability Measures\) Bill 2019](#) received Royal Assent on 12 December 2019.
- Foreign residents can generally no longer claim the CGT main residence exemption upon disposal.
- CPA Australia engaged with government, Treasury and the media throughout the process to raise concerns about the Bill.

SUMMARY OF CHANGES

The [Treasury Laws Amendment \(Reducing Pressure on Housing Affordability Measures\) Act 2019](#) is now in force.

The Act removes the main residence exemption for foreign residents for tax purposes, except where:

- you have been a foreign resident for tax purposes for a continuous period of six years or less, and during the time one of the following occurred:
 - you, your spouse, or your child under 18, had a terminal medical condition
 - your spouse, or your child under 18, died
 - the CGT event involved the distribution of assets between you and your spouse as a result of your divorce, separation or similar maintenance agreements.

If you are a foreign resident for tax purposes when you die, the changes also apply to:

- legal personal representatives, trustees and beneficiaries of deceased estates
- surviving joint tenants
- special disability trusts.

TRANSITIONAL MEASURES FOR PROPERTIES PURCHASED PRIOR TO 9 MAY 2017

Transitional measures mean that there are different treatments until 30 June 2020 depending on the property acquisition date.

Property acquisition date	Treatment
Prior to 7.30pm (AEST) on 9 May 2017	CGT main residence exemption can be claimed for disposals that occur until 30 June 2020 and they meet the other requirements for the exemption.*
On or after 7.30pm (AEST) on 9 May 2017	CGT main residence exemption no longer applies to disposals.*

*That certain life events occur within a continuous period of six years of the individual becoming a foreign resident for tax purposes.

The Australian Taxation Office (ATO) has [published](#) general guidance on the changes.

CPA AUSTRALIA ADVOCACY

CPA Australia undertook a range of initiatives seeking to modify the Bill to provide more equitable outcomes for Australian citizens who become foreign residents for tax purposes. We were not supportive of legislation that imposes significant capital gains tax liabilities on those who have been Australian tax residents for most of their property ownership period and who, but for becoming a foreign resident for tax purposes, would have access to a partial or full main residence exemption.

Our advocacy activities included submissions to the [Senate Standing Committee on Economics](#) (March 2018) and the Treasurer (October 2018). We also included the issue in our [pre-Budget submission 2019-20](#) (February 2019). Our engagement work was undertaken in conjunction with other professional accounting and tax associations, and included ongoing discussions with public officials and policy advisers.

We will continue to gather member feedback about the impacts of the changes and provide this to Treasury and the ATO as part of ongoing consultation.

Contact policy.advocacy@cpaaustralia.com.au to provide your views.

E&OE

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