Worksheet 5: Capital gains

Name of each beneficiary that is: a. Specifically entitled to an amount of a capital gain; and/or b. Presently entitled to a share of the trust income (if there is an amount of a capital gain to which no one is specifically entitled)	Column (2)	Column (3)	Column (4)	Column (5)		Non-active assets			Active assets			
	Amount of the capital gain that a beneficiary is specifically entitled to (if any)	Beneficiary's adjusted Division 6 percentage of the trust income *multiplied by* an amount of the capital gain that no beneficiary is and no trustee is specifically entitled to	Total of columns (2) and (3)	Column (4) amount *divided by* the amount of the capital gain, as a percentage	Show the product of net capital gain and column (4)	**1** Indexation applied	**2** CGT discount applied	**3** Other capital gains	**4** Indexation and small business 50% active asset reduction applied	**5** CGT discount and small business 50% active asset reduction applied	**6** Other capital gains and small business 50% asset reduction applied	**7** Net capital gain
Show here the total of the capital gain(s) to which the trustee has chosen to be assessed that would otherwise be assessed to a beneficiary.												
Show here the total of the capital gain(s) to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest.												

Put the total at **A** item **21**.

A trust advises a beneficiary of their share of a net capital gain in the categories 1 to 6 because a beneficiary needs to gross-up the share of net capital gain to which the trustee applied by multiplying:

- the CGT discount by 2, before deducting any capital losses, then the CGT discount
- the small business 50% active asset reduction by 2, before deducting any capital losses, then the small business 50% active asset reduction
- the CGT discount and the small business 50% active asset reduction by 4, before deducting any capital losses, then the CGT discount and the small business 50% active asset reduction.

A beneficiary needs to decide which order of categories 1 to 6 to use to deduct losses that will give the best result.

For more information about these aspects of capital gains, see the *Guide to capital gains tax 2018*, at **ato.gov.au/cgt**

Example

The Little Trust generated $100 net rent and a $600 capital gain (which was a discount capital gain). The trust also had a capital loss of $100.

The trust deed does not define 'income' and therefore capital gains do not form part of the trust income. As a result, the income of the trust estate is $100 and the taxable income is $350 ($100 + ($600 - $100)/2)

The trustee resolves to distribute $300 related to the capital gain (after absorbing the capital loss) to Catherine and the $100 rent to Aaron.

Catherine is specifically entitled to 60% of the $600 capital gain under subsection 115-228(1) because she can reasonably be expected to receive the economic benefit of 60% ($300) of the $500 capital gain remaining after accounting for the $100 capital loss. Under section 115-227, Catherine's share of the capital gain is $360 (60% of the $600 capital gain).

Aaron's share of the capital gain is $240 under section 115-227 because he has an adjusted Division 6 percentage of 100% (since none of the capital gain is treated as trust income) and there is $240 of the $600 capital gain to which no one is specifically entitled.

Catherine divides her share of the capital gain ($360) by the total capital gain ($600) and therefore has 60% of the capital gain under paragraph 115-225(1)(b).

Aaron divides his share of the capital gain ($240) by the total capital gain ($600) and therefore has 40% of the capital gain under paragraph 115-225(1)(b).

The taxable income relating to the capital gain calculated under paragraph 115-225(1)(a) is $250.

Catherine's attributable gain calculated under subsection 115-225(1) is $150 ($250 x 60%).

Aaron's attributable gain calculated under subsection 115-225(1) is $100 ($250 x 40%).

(Source: Examples 2.8, 2.9, 2.10 of the Explanatory Memorandum to the Tax Law Amendment (2011 Measures No 5) Bill 2011)