Australian Government
Australian Taxation Office

Examples of tax consequences on sales of land including small-scale land subdivision

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Purpose

The purpose of this document is to provide examples of the tax consequences on sales of land (including small-scale land subdivision). It should be read in conjunction with Vacant land and subdividing and Tax consequences on sales of small-scale land subdivisions.

Example 1 – land acquired and held for long-term capital growth

In 2015, Build Pty Ltd as trustee for Kate Build Discretionary Trust (the Trust) purchased a vacant 10-hectare parcel of land (zoned residential) for $290,000 and its director intended to hold it for long-term capital growth.

The Trust has no other assets and has not previously acquired vacant land as a speculation. The Trust does not have an Australian business number (ABN) and is not registered for goods and services tax (GST).

Kate Build is the director of the trustee and principal beneficiary of the Trust. She has never directly, or indirectly (through control of other entities), carried on a land development business or undertaken land development activities.

The trustee entered a contract to sell the land for $580,000 in January 2023 (settling in March 2023).

The land had not been subdivided, developed or used to generate income.

The trustee incurred associated costs of $40,000 in connection with the purchase, holding and subsequent sale.

Sale as part of a business activity

The trustee's profit is not business income since the trustee did not sell the land in the course of carrying on a business.

Sale as part of an isolated profit-making transaction

Although the trustee is not carrying on a business, the profit could still be income if the trustee purchased the land with the intention of making a profit and made the profit through carrying out an isolated business operation or commercial transaction.

However, in this case:

- *the scale of the trustee's activities is small*
- *the trustee's activities are not especially complex*
- *the trustee has not undertaken any activities to increase the value of the land*
- *the trustee has not had any previous dealings in property.*

These factors indicate that the trustee's profit was not made in the course of a business operation or commercial transaction.

Sale subject to capital gains tax

A capital gains tax (CGT) event (disposal of a CGT asset) happens on the sale of the land in the 2022–23 income year. Any costs incurred in purchasing, holding and selling the land will form part of the cost base for working out the capital gain. As the land was held for more than 12 months, the trustee can claim a 50% discount on the capital gain.

Table 1: Calculation of net capital gain*

Sale price	*$580,000*
Less: cost base • *purchase price ($290,000)* • *purchase, holding and selling costs ($40,000)*	*$330,000*
Capital gain	*$250,000*
Net capital gain to be included in the Trust's tax return (after 50% discount)	*$125,000*

** The Trust has no other capital gains or capital losses*

GST consequences on the sale

The Trust's activities do not amount to an enterprise as they were not carried on in the form of a business or adventure or concern in the nature of trade and there has been no leasing or licencing of the property to another party. The land has also not been used in any other business activity – for example, as business premises. Therefore, GST does not apply to the sale.

Example 2 – residential suburban block land subdivision

In August 2018, Harrison bought his first home on an 810 m^2 block of land for $780,000.

He has never directly or indirectly (through control of other entities) carried on a land development business or undertaken land development activities.

In late 2019, he made enquires on subdividing the land, with the intent of selling part of the land he did not need, to lessen his home loan burden.

In April 2020, Harrison applied to subdivide his land into 2 separate blocks of 405 m^2 each. Approval was granted in July 2020.

Harrison engaged a valuer at that same time, to apportion the block's initial cost of $780,000. The valuer determined that the block containing his home represented 60% of the total value of the land, with the other block representing the remaining 40%.

He then entered a contract to sell that other block for $550,000 in September 2020 (settling in November 2020) and continued to live on the block with his home on it.

Harrison incurred subdivision costs of $50,000 and selling costs of $18,000.

Sale as part of a business activity

The profit made by Harrison is not business income since he did not sell his land in the course of carrying on a business.

Sale as part of an isolated profit-making transaction

Although Harrison is not carrying on a business, the profit could still be income if Harrison purchased the land with the intention of making a profit and made the profit through carrying out an isolated business operation or commercial transaction.

However, in this case:

- *Harrison purchased the property to be his home*
- *he had no previous dealings in properties*
- *the subsequent subdivision of the unimproved block is relatively straightforward*
- *Harrison has not undertaken further activities to increase the value of the land.*

These factors indicate that Harrison's profit was not made in the course of a business operation or commercial transaction.

Sale subject to capital gains tax

Each block that results from the subdivision is a CGT asset. The subdivided block is taken to have been acquired at the time the original block was acquired. A CGT event (disposal of a CGT asset) happens when Harrison sells the subdivided block. The cost base of the original land is divided between the subdivided blocks on a reasonable basis. For more information, refer to Taxation Determination TD 97/3 Income tax: capital gains: if a parcel of land acquired after 19 September 1985 is subdivided into lots ('blocks'), do Parts 3-1 and 3-3 of the Income Tax

Assessment Act 1997 treat a disposal of a block of the subdivided land as the disposal of part of an asset (the original land parcel) or the disposal of an asset in its own right (the subdivided block)?

As the land was held for more than 12 months, a 50% discount applies to the calculation of the net capital gain.

Table 2: Calculation of net* capital gain

Sale price of the subdivided block	*$550,000*
Less: cost base • *apportioned cost of land (40% × $780,000 = $312,000)* • *apportioned subdivision costs (40% × $50,000 = $20,000)* • *selling costs ($18,000)*	*$350,000*
Capital gain	*$200,000*
Net capital gain to be included in Harrison's tax return (after 50% discount)	*$100,000*

** Harrison has no other capital gains or capital losses*

GST consequences on the sale

Harrison's activities do not amount to an enterprise as they were not carried on in the form of a business or adventure or concern in the nature of trade and there has been no leasing or licencing of the property to another party. The land has also not been used in any other business activity – for example, as business premises. Therefore, GST does not apply to the sale.