

What you need to Consider re 1st July, 2027

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This blog is our first attempt at a live blog. We see this as the best way to keep our clients up to date with the important deadlines along with the constant changes (corrections) to the 2026-2027 budget legislation. We will attempt to update this blog promptly after changes are announced, though sometimes there will be a few day's delay while we consider the full effect of the changes as there are usually unintended consequences.

There are also many changes due to come into effect as at 1st July, 2028 in relation to discretionary trusts. These will be the subject of another blog. Here they are just considered regarding your will because it maybe too late to change your will by the time we have any certainty.

The following is based on the law as it has been passed through parliament, explanatory memorandums and bills introduced to parliament. There are asterisks against points where the government has flagged that this part of the legislation has an unintended consequence and they will make corrections.

Please consider that it is only now a matter of months before the 1st July, 2027 and many corrections already made have led to further problems. In previous legislation it has taken the government up to 30 years to get around to making corrections to unintended consequences and then those changes were not retrospective. So, we are not hanging onto promises but dealing with the law as it currently stands.

One of the biggest problems that still needs to be changed from the original budget legislation is the removal of the roll over concessions on divorce, death and insurance payouts for any capital gain made up to 30th June 2027. A death, divorce and disaster tax. https://www.bantacs.com.au/Jblog/the-death-divorce-and-disaster-tax/#more-2122 The government has recognised the problem exists, they say it is a complex issue and have

undertaken to fix it in the future. We think it is important to be prepared in case they do not fix it in time and there are things you can do not to minimise the consequences.

The following advice is based on the legislation and bills before parliament, as it is currently written rather than speculation about corrections. Please come back to this page regularly to check for updates.

Do Now:

Expats – Come home! If you have a home in Australia and are a non resident for tax purposes as at 1st July, 2027 then you will be deemed to have sold your home while living overseas so not entitled to the main residence exemption right back to the date you purchased the property, even if it has been the family home for 30 years. Selling while living overseas will create the same problem anyway. Coming home for a holiday to sell will not fix the problem. You need to return here to live. Much more detail here https://www.bantacs.com.au/Jblog/warning-to-expats-with-a-home-in-australia/#more-2170 This has come about as a consequence of a recent correction to the original budget legislation. Probably unintended but that is how we roll now and is an example of why we feel the problems will not be solved before 1st July, 2027, in fact things could get worse.

Everyone who is going to die one day – Review your will, don't delay you could lose capacity or die and the ATO could become a major beneficiary of your estate. Unfortunately, further updates to the legislation may mean regular, costly reviews. Issues to consider:

a) Ask your solicitor if your will contains a testamentary trust. If it does the deed should be reviewed to ensure that there is no discretion to include beneficiaries other than individuals and charities. The ability to include companies and trust, even if it never happens, could mean the testamentary trust distributions are taxed at a minimum of 30% to all beneficiaries.
b) Review in specie distributions of any assets purchased between 20th September, 1985 and 30th June 2027. The residual beneficiaries will have to pay the tax on any gain on that asset up to 30th June, 2027 which may not be a fair outcome.* Don't forget this will include jewellery that originally cost more than $500.
c) If the family home is exposed to CGT, for example it was your rental property before you lived there or is on more than 2 hectares then there will be CGT payable on your death.* This could mean your family home will need to be sold to pay the tax. Make sure there is adequate provision for your family to pay that tax ie life insurance, rather than end up homeless. https://www.bantacs.com.au/Jblog/death-tax-will-make-widow-homeless-unless-husband-dies-before-1st-july-2027/

Property Valuations – Do not waste your time and money before 1st July, 2027. The ATO has issued a warning that valuations undertaken before 1st July, 2027 are not acceptable. Consider that a higher valuation is in your favour so start sprucing up your properties. But make sure all work is finished before 30th June 2027.

Renovators – Finish before 30th June, 2027 and best not to start anything significant before 30th June, 2027. The ATO guidance on valuations makes it very clear that a valuer cannot take into account the finished product so, for example a house without a kitchen due to

renovations is going to come in at a very low value yet the cost base will be artificially high as the cost base includes any costs incurred which even includes amounts you have not yet paid but are committed to. So, the valuation will not include that new kitchen yet to be installed and not the old one as that is no longer there but the cost base will include the cost of the new kitchen you have committed to. As a result your pre 2027 capital gain that is entitled to the 50% CGT discount is artificially low. Maybe even a capital loss which will could be lost when you die*

Residential New Builds - While the same problems associated with renovators also exist with new builds, you don't really care what your 1st July, 2027 valuation is because you will still be entitled to the 50% CGT discount if your certificate of occupancy is issued after 12th May, 2026. Further, there is not actually a market value reset at 1st July, 2027 on qualifying residential rebuilds so the incurred expenses and valuation miss match will not catch you out providing you do not make the election to use indexing instead. Under indexing then a 1st July, 2027 valuation and reset will be necessary.

Nevertheless, you have got to question the sanity of buying a market that is going downwards with a stated government policy to achieve that. Note not all residential new builds qualify for the concessions, for example they must increase residential housing stock. For more on the concessions and issues for new builds
https://www.bantacs.com.au/Jblog/buying-or-building-a-new-build/#more-2185

If your new build does not qualify as a new build then your valuation at 30th June 2027 does really matter and you are going to be caught the same as renovators. You may even have a capital loss at 30th June, 2027 because your cost base will need to include future construction costs that you are already committed to but the valuation can only reflect a partially completed house. It is probably better to delay committing to any construction until after 1st July, 2027.

Non Residential New Builds – Delay doing anything until after 30th June, 2027 including delaying anything that could be seen as a commitment to expenditure. In fact the non residential new build situation started before 1st July, 2027 is probably the worse possible scenario. You will end up with the pre 2027 cost base of the land and construction costs with a valuation of a vacant piece of land in a shambles. No doubt creating a pre 2027 capital loss, so no 50% CGT discount on any capital gain to date on the land. This does mean a very low starting cost base post 2027 but none of the construction expenditure that you committed too before 1st July, 2027 can be included in that cost base even if paid after 1st July, 2027. The capital loss deferred at 30th June 2027 maybe able to help offset the future gain on the building but if you die before selling the building that capital loss will be realised in your DOD tax return and not available to your estate.* Accordingly, it maybe better to sell the property as soon as it is completed.

Selling a property soon after completion will lead the ATO to argue that you built it with the intention of sell at a profit. So you are not merely realising an asset it is a profit making arrangement so not subject to capital gains tax, taxed as normal income. These days that is a good thing because normal income is not caught under the minimum tax rate of 30%.

The bottom line is, if you can. Stop any ideas you have about construction until after 1st July, 2027.

Main Residence Knock Down Rebuild – Do not start a knock down rebuild project. If there is no dwelling on your land at 30th June, 2027 you will not qualify for the main residence exemption on the capital gain right back to the time you purchased the property up to the market value at 30th June, 2027. Note if it is a pre 1985 asset in your hands this is not a problem. If it is too late, the house has been knocked down and you will not have the rebuild finished by 30th June 2027 then consider living in a dwelling on the land for example a shed or caravan. In Summers case AAT 2008 https://www.ato.gov.au/law/view/document?LocID=%22JUD%2F2008ATC10-007%22 living in a shed with limited amenities was still accepted as a main residence dwelling.

There are huge tax benefits in delaying if you are going to knock down your main residence to build a duplex with the view of renting out one side. If you start this project after 1st July, 2027 the deemed sale at 30th June, 2027 locks in all the capital gain to date covered by your main residence exemption so the rental side starts with a cost base of half the market value at 1st July, 2027. Start the project before 30th June, 2027 and only one side of the duplex will qualify for the main residence exemption right back to the time you purchased the property. https://www.smh.com.au/money/investing/thinking-of-rebuilding-your-home-don-t-fall-for-this-costly-tax-trap-20260818-p60pa1.html?fbclid=IwY2xjawVbJ_5leHRuA2FlbQIxMQBwZG9mBXNydGMGYXBwX2lkEDIyMjAzOTE3ODgyMDA4OTIAAR_oK7mAbiqao1dVBjBe0vhQZ7VN4jATlCmgKQaQrHYuMdUQYHFOZnua0CzPZw_aem_RwaIhzG6cL4u6cwBr9TWtg

Not feeling well? – Delaying the inevitable till after 1st July 2027 will probably be costly to your estate. Whether you die before or after 30th June, 2027 will have significant tax consequences to your estate.* Your death, after 30th June, 2027 will trigger the payment of CGT on any pre 2027 capital gain. More detail here https://www.bantacs.com.au/Jblog/death-tax-will-make-widow-homeless-unless-husband-dies-before-1st-july-2027/#more-2146

Do not buy Residential Property – The government has a stated objective to bringing down property prices and has been succeeding. Why would you buy something now, when everything is pointing towards it being cheaper in the future? Even new builds with the tax concessions are likely to be worth less than your contract will make you pay on completion, which will probably create a financing a problem.

Divorce - If you are going through a divorce, finalise it before 30th June, 2027 the rollover relief for assets purchased between 20th September, 1985 and 30th June, 2027 will disappear after that date*.

Sit on your hands - Do not set up a discretionary trust without advice on your particular circumstances. If you can avoid making the investments you are considering making through a discretionary trust until after the election in early 2028 as the LNP if elected will make changes.

Do not buy a residential property while the government is determined to drag down its value. Do not start any construction until after 1st July, 2027.

The consistent message in this budget is significant disruption to the economy and chaos from uncertainty. Definitely not a good time to take any risks of starting anything.

At 1st July 2027:

Assets you own at 30th June, 2027 - If you want to preserve the 50% CGT discount you will need to obtain a valuation as at this date. This includes normal personal use assets that have cost you more than $10,000 ie your caravan or boat. Note cars are not subject to CGT. Collectables that cost you more than $500 are also included. Jewellery is a collectable so this may include your wedding ring. Note that this valuation requirement includes pre CGT assets. The valuation cannot be done before 1st July, 2027. It will need to be done retrospectively. You do not necessarily need a registered valuer though that is going to stand up the best to an ATO challenge. The ATO have promised further advice on obtaining valuations. Take photos at 30th June, 2027 and consider delaying obtaining an actual valuation unit after the next election, due in early 2028, in case the LNP get in and reverse the whole mess.

Businesses – Your goodwill is also an asset and its valuation is rarely simple. Again a professional valuation is the most credible. We can undertake these valuations for you. It is advisable that you obtain one when your financial statements for the 2026-2027 financial year are completed. In the new year we will make available a questionnaire that you should complete on 1st July, 2027 to allow a valuation to be made at a future date. The higher your valuation at 1st July, 2027 the more of any eventual capital gain that will be entitled to the 50% CGT discount. According to TR 1999/16 personal goodwill is not transferable if the person leaves the business, so has no value but that does not mean a one person show has no goodwill. There is still the inherent value that previous customers will come back even if a new person is providing the service. There is no need for a valuation of plant and equipment that you have been depreciating, as that is not subject to CGT. Fill out the questionnaire but avoid paying for a valuation until after the 2028 election.

Main Residence – Do not take it for granted that the main residence exemption is going to protect you. It would be useful to have a valuation just in case. To avoid needing a retrospective valuation in the future, which then can really only be done by a valuer. Keep information on recent sales in your area of similar houses around 1st July, 2027. Also take photos of the condition of the house at 1st July, 2027.

After 1st July 2027:

Valuations - It is only now that you can start to obtain valuations. They can be retrospective but not prospective. The sooner the better of course as things change but if you are going to pay for a valuation it may be worth waiting to see if the LNP are elected in early 2028 and abolish the reset. It is wise to take photos at 30th June 2027. The ATO are unlikely to challenge a valuation by a registered valuer but they have been known to. Don't forget jewellery, possibly an insurance valuation will do.

The valuer is allowed to consider future potential for example when valuing land that is large enough to one day be subdivided but only to the extent that it would normally be reflected in the value of the property. The point is that the value of the property after future action is taken cannot affect the valuation now, only the potential can be considered. This means that a property undergoing renovations can only be valued for what it would sell for at that time, unfinished.

Keep information on recent sales in your area of similar houses around 1st July, 2027. Not the advertised prices but actual sales. Also take photos of the condition of the property at 1st July, 2027 in case you need to employ a valuer in the future.

Note a residential property that qualifies as a new build because it increases housing stock and has a certificate of occupancy/completion dated after 12th May, 2026 does not need a 30th June 2027 market valuation unless, in the very unlikely scenario, you choose to not utilise the 50% CGT discount and opt for indexation and the 30% minimum tax rate instead. For more information on new builds https://www.bantacs.com.au/Jblog/buying-or-building-a-new-build/#more-2185

Businesses should speak to their accountant when preparing their 2027 financial statements about the methods of valuation available to them. Businesses in particular will have difficulty in obtaining retrospective valuations but this needs to be balanced with the possibility that the LNP will reverse all this after and election in early 2028. So fill out our questionnaire at 1-7-2027. You can't really make a valuation until your 2026-2027 financial statements are ready.

Don't forget your boat, caravan etc any personal use asset that cost you more than $10,000.

Discretionary trusts – If you have a discretionary trust it is important that you obtain structuring advice before 1st July, 2028.

Small Developments – It was always an advantage to argue these projects were merely realising an asset so the 50% CGT discount applies. Now with the minimum tax of 30% on capital gains there can be a tax advantage to argue you are in business and the gain is normal income. You will need to crunch the numbers on indexation which would be available if the development was on capital account. But now that the 50% CGT discount will not be available from 1st July, 2027 avoiding that 30% minimum tax rate could save you over $9k in tax if you have no other income than the sale. The $9k is the difference that a minimum 30% tax on the portion of your income under $45,000 will make because you do not qualify for the tax free threshold and the 14% tax rate. Though if your total taxable income for the year is $227k or more then your average tax rate is 30% anyway and it will be better to argue on capital account so that you get the benefit of indexing. The most important point is to discuss the project with a property savvy Accountant before you even start. We can't fix it afterwards.

About to Sell for a Capital Loss – There is an order in which capital losses are to be offset against capital gains. Details here https://www.bantacs.com.au/Jblog/the-new-cgt-regime/#more-2090 The important point is this order is designed to reduce pre 2027 capital gains that are entitled to the 50% CGT discount before any other capital gains. Note that this

can only happen to pre 2027 gains that have had a realisation event ie you don't own them any more. So that deferred capital gain you have tucked away on the 1st July 2027 valuation is safe from being reduced by other capital losses until you sell or die. So the trick is not to sell any pre CGT assets in the year you make a capital loss or while you are carry forward a capital loss. Do not sell these pre CGT assets, that have a capital gain, until you have used capital gains from post 2027 assets to soak up the losses. Of course, it is likely the case that you will have an asset with pre and post capital gains. The order of offsetting capital losses means if you sell that asset, with a post 2027 loss and a pre 2027 capital gain the post 2027 loss will offset the pre 2027 capital gain first and before the 50% CGT discount is applied.

Utilising Losses – Carried forward capital losses are lost when you die, your estate cannot utilise them. Ideally, you should utilise them before you die by selling off some shares with a capital gain. As losses reduce capital gains before the 50% CGT discount, if any, is applied, it is a better choice to sell of assets that are not entitled to the 50% CGT discount to soak up your capital losses before death.

Now if the legislation remains as it currently stands* any deferred pre 2027 capital gains will go into your date of death tax return and soak up these losses. If the government does change the legislation to prevent a CGT event being trigger by death then you just have to worry about offsetting actual capital losses before you die, not the deferred ones.

Now back to the law as it currently stands, consider any pre 1st July, 2027 capital losses that are deferred, that is the market value at 1st July, 2027 was less than the cost base. Plenty of examples of that above ie renovators and some new builds. It would seem that if the legislation is not corrected those losses will be realised on death, go in the date of death tax return and be lost forever unless there is a capital gain in the date of death tax return*. Losses in the date of death tax return cannot be utilised by the estate. So, for example you were building a property at 30th June 2027. Your pre 1st July, 2027 cost base includes the total cost of construction because you have committed to it by signing the contract but the valuer can only value a construction site. Obviously, this means a capital loss as at 30th June 2027 sitting there deferred until a realisation event such as death*. Your cost base after 1st July, 2027 is the market value at 30th June, 2027. Your estate cannot increase that cost base by any of the construction costs as they were incurred before 30th June, 2027. Nor can it access the pre 30th June 2027 capital loss. If your estate or beneficiaries sell that building there is going to be a huge capital gain simply because the cost of building the building is completely ignored. Also consider that the eventual gain on all those construction costs will not get the benefit of indexation or the 50% CGT discount. You will not be able to index all those costs incurred before 30th June 2027 even though you did not pay them until after 30th June, 2027. You will only be able to index the market value at 30th June, 2027 which of course will not be able to take into account construction costs incurred but not yet showing. Incurred means an obligation to pay ie a commitment to a construction contract means you have an obligation to make the future progress payments so they are incurred at the time of signing the contract, not when actually paid.

Upon completion take advice, the tax consequence of dying while owning the building may be so bad that you may need to sell the building as soon as it is completed. If you can avoid incurring costs before 30th June 2027 it may be wise to do so if you can cope with the delay don't start anything towards the development until after 30th June, 2027 to avoid this problem.

If you are constructing a residential property that qualifies as a new build ie increases housing stock then there is no market value reset at 1st July, 2027 so no deferred capital gain or loss created that will be triggered on death.