The changes: CGT, negative gearing & LRBAs

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Questions?

Please ask questions through the Q & A pod not on the chat pod.

Not Answered Questions will be emailed to you along with the **webinar recording**

Legislated negative gearing changes

Negative gearing & residential property

1 Not deductible

Rental deductions exceeding assessable income from a residential dwelling cannot offset your other income for the year.

2 Quarantined amount

The excess becomes a quarantined amount, usable firstly against positive rental income then to reduce residential capital gains under the s 102-5 method.

3 Carried forward

Any excess amount left over rolls forward, reducing residential income or gains (in that order) in later income years.

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Negative gearing: Relevant dates

Property acquired before Budget night 12 May 2026 is "grandfathered" ie it won't be subject to the new quarantining rules for negative gearing (date of acquisition is contract date)

Property acquired after Budget night 12 May 2026 and before 1 July 2027 can be negative geared in that income year - but thereafter quarantining applies

Property (excluding new builds) acquired after 30 June 2027 will be subject to the new negative gearing quarantining rules – no negative gearing allowed

Case study negative gearing

Henrietta buys an established residential dwelling in July 2028. Because it was acquired after 12 May 2026 and is not a new build, her losses are quarantined.

2028-29: Rent $50,000, deductions $65,000. She deducts $50,000. The $15,000 excess is quarantined and carried forward.

2029-30: Rent $52,000, deductions $70,000. The new $18,000 excess plus the $15,000 quarantined loss means means Henrietta now has a $33,000 is a quarantined loss.

2030-31: Rent $72,000, deductions $20,000. Net rent is $52,000. The $33,000 quarantined loss is fully used, leaving $19,000 of assessable rent income

Poll question 1

Marco signed a contract to buy an established residential dwelling in April 2026.

Settlement occurred in September 2026, after Budget night.

The property is negatively geared from day one.

Are his losses quarantined?

a) Yes

b) No

Exclusions from quarantining

1. **Grandfathered pre-Budget dwellings**

   Interests acquired before 7.30pm (ACT time) on 12 May 2026 are grandfathered from the rule.

2. **New residential dwellings**

   Dwellings meeting Minister-determined new-build requirements stay deductible.

3. **Minister-determined purposes**

   Further dwellings can be carved out for social or affordable housing, or for disadvantaged groups.

4. **Certain entities**

   Widely held unit trusts, superannuation entities.

Legislated CGT changes

Overview - Rules in a nutshell

Assets bought & sold before 1 July 2027 – current system 50% CGT discount

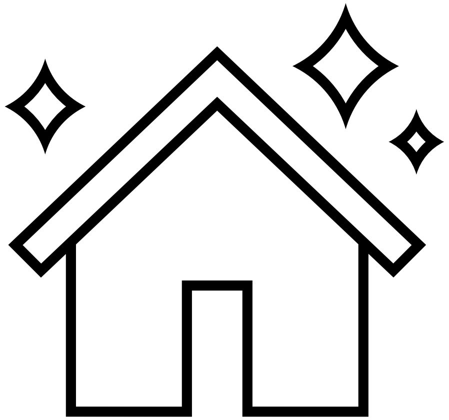
Assets bought before but sold after 1 July 2027 – gain accrued up to 1 July 2027 gets CGT discount; indexation & min 30% tax thereafter

Assets bought and sold after 1 July 2027 – indexation & minimum 30% tax rate only*

*Exclusions apply

These changes apply to all CGT assets – and not just real property

Exception – New residential build



- Choice - keep the 50 % discount & not pay minimum 30% tax or
- choose to index the cost base but the 30% minimum tax will apply

Meaning of residential dwelling — s 26-160(1) and (2)
A residential dwelling is a dwelling, but not the following:

- a caravan, mobile tiny home or other mobile home;
- a hotel, motel, inn, hostel or boarding house;
- student accommodation connected with a school or other education institution;
- a boat or other marine vessel.

Meaning of new residential dwelling — s 26-160(4)
There is no definition in the Act. The Minister sets the requirements by legislative instrument, and under s 26-160(4A) must assist the objective of adding to the supply of housing in Australia.

Indexation replaces 50% CGT discount

The 50% CGT discount no longer applies on capital gains ***arising*** *after 30 June 2027. This is regardless of when the asset is acquired. Note exceptions apply for newbuilds.*

1

What changed

The 50% discount is replaced by indexation. The cost base is indexed for inflation and only the ‘real’ gain is taxed.

2

Who it applies to

Resident individuals, trusts (for resident beneficiaries) and partners. Foreign and temporary residents are excluded - no indexation & no CGT discount

3

The 12-month rule

Indexation is only available where the asset has been held for at least 12 months.

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Deemed sale and reacquisition – Div 112

If the asset is held before and after 30 June 2027 the rules deem you have disposed of the asset and re-acquired for market value at that date. That splits the asset into two components, each taxed differently.

BEFORE 1 JULY 2027

Any gain or loss up to 30 June 2027 is calculated with reference to market value at that date - and is deferred until sale etc

That is, a pre-2027 gain keeps the 50% discount – frozen indexation not available.

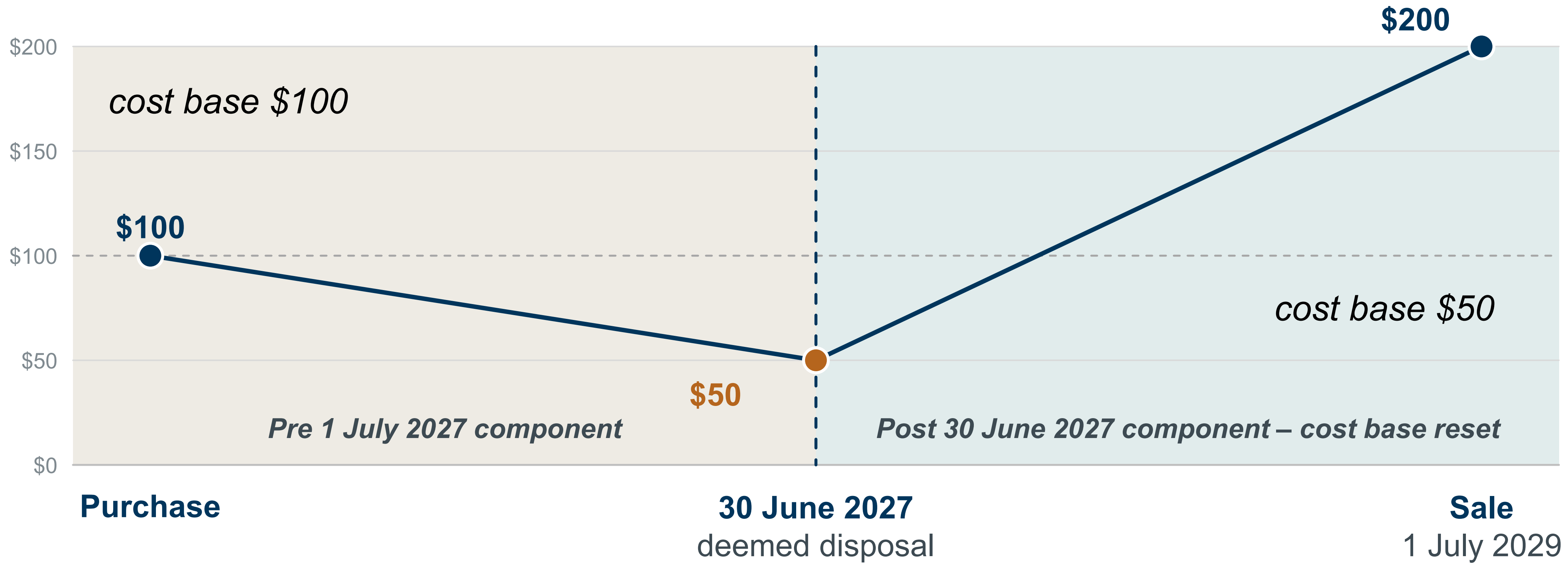
FROM 1 JULY 2027

The cost base resets to the 30 June 2027 market value. This component is indexed for inflation and gets no 50% discount – plus minimum 30% tax applies (but subject to exceptions)

The deemed capital proceeds from deemed disposal at 1 July 2027 equal the asset's market value just before 1 July 2027. Note alternatively, you may choose an apportioning method determined by the Minister under s 112-185 to work out the capital proceeds..

Scenario A: loss/gain scenario under MV method

The same asset, traced over time. The dashed line marks the 30 June 2027 split.



NOTE: The pre-2027 loss, is a deferred loss. It is taken to be a 'current-year' loss in year of actual sale to be offset against other capital gains in that year (here the prima facie $150 gain).

Scenario A (cont): treatment of loss

Bought for $100. Worth $50 at 30 June 2027. Sold for $200 on 1 July 2029.

BEFORE 1 JULY 2027

$50 loss.

Worth $50, cost $100. Loss deferred, then treated as a current year loss in 2029-30 when it is sold.

FROM 1 JULY 2027

Gain about $147.

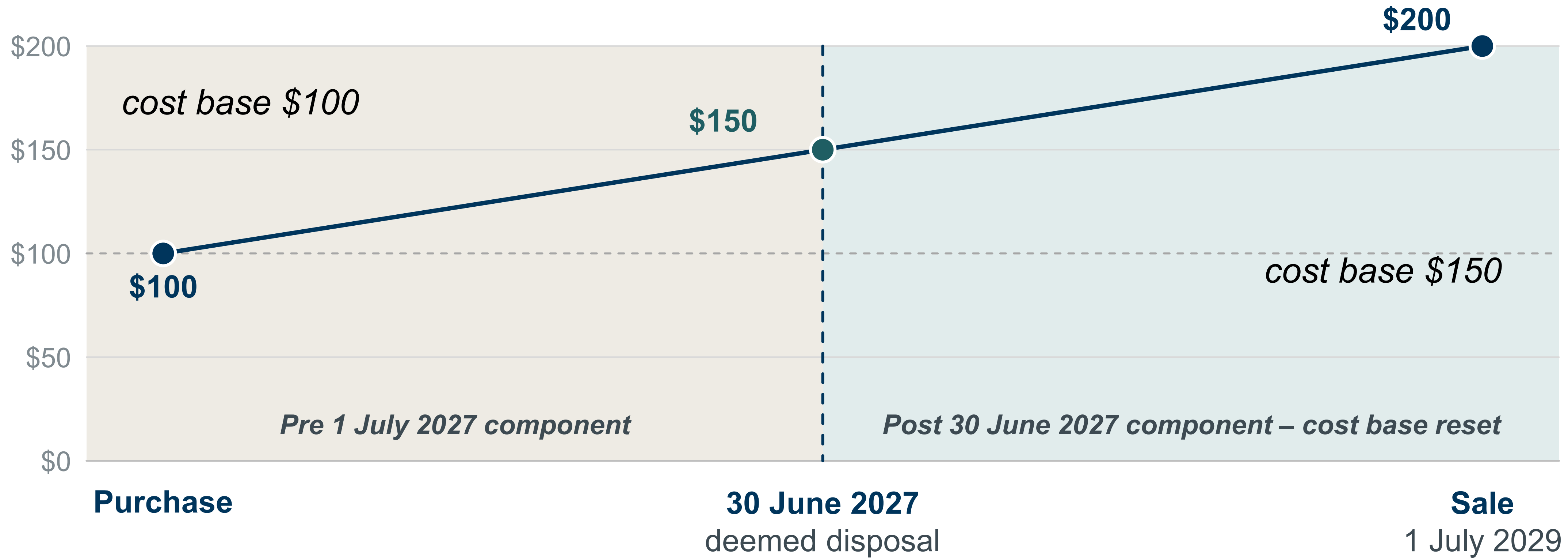
Cost base resets to $50, indexed to about $53. Sold for $200.

Taxed in 2029-30: gain $147 less the $50 loss = about $97.

Ignore indexation and it is $150 gain less $50 loss = $100, exactly the actual gain.

Scenario B: gain/gain scenario under MV method

The same asset, traced over time. The dashed line marks the 30 June 2027 split.



The pre-2027 rise is the deferred gain. It keeps the 50% discount at sale.

Scenario B (cont): a gain/gain scenario

Bought for $100. Worth $150 at 30 June 2027. Sold for $200 on 1 July 2029.

BEFORE 1 JULY 2027

$50 gain.

Worth $150, cost $100. Gain deferred, and keeps the 50% discount, so it is halved to $25.

FROM 1 JULY 2027

Gain about $41.

Cost base resets to $150, indexed to about $159. Sold for $200.

Taxed in 2029-30: discounted gain $25 plus post gain $41 = about $66.

Gain $100, split $50 before and $50 after. The before half gets the 50% discount; the after half gets indexation.

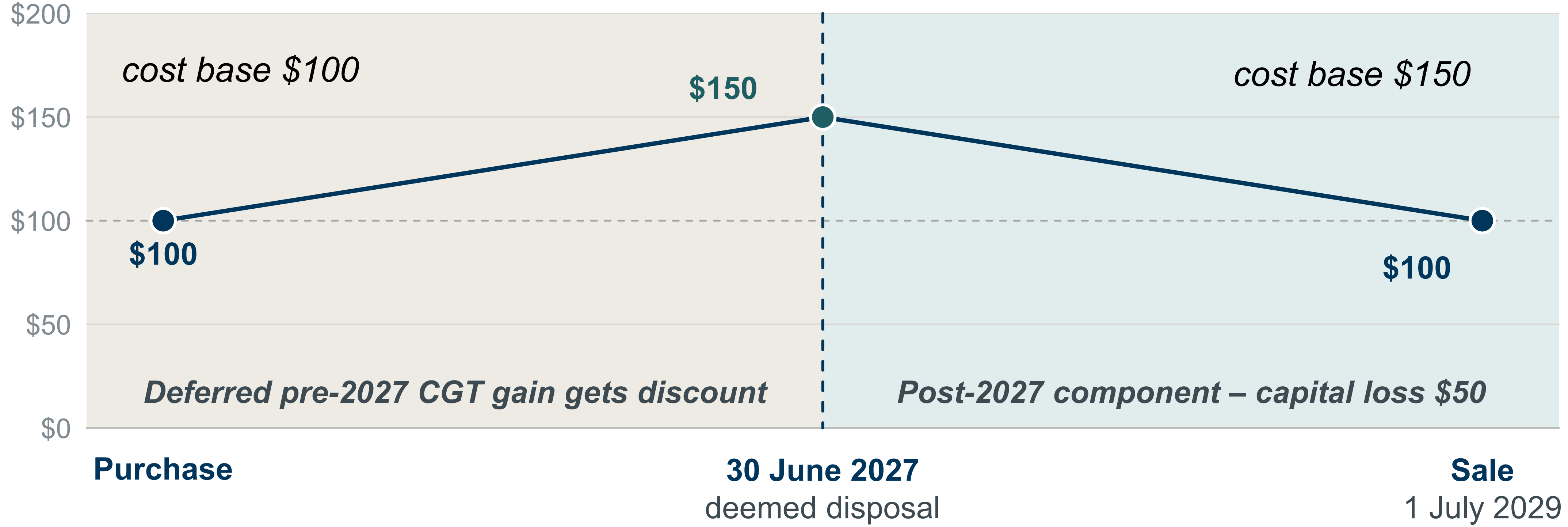
Comparison of loss/gain and gain/gain scenarios

Same $100 purchase, same $200 sale price. The only difference is whether the asset rose or fell before 1 July 2027.

	Loss at 30 Jun 2027	Gain at 30 Jun 2027
Pre-2027 movement	**$50 loss**	**$50 gain**
Pre component treatment	Deferred current year loss	Deferred gain ***retains*** 50% discount
Post-2027 gain (indexed)	about $147	about $41
Taxed in 2029-30	**about $97**	**about $66**

Scenario C: ‘breakeven’ under MV method

The same asset, traced over time. The dashed line marks the 30 June 2027 split.



The pre-2027 rise is a deferred gain. The post-2027 fall is a capital loss at sale.

Scenario C (cont): Breakeven under MV method

Bought for $100. Worth $150 at 30 June 2027. Sold for $100 on 1 July 2029.

BEFORE 1 JULY 2027

$50 gain.

Gain deferred to 2029-30. Discountable, but after deducting losses.

FROM 1 JULY 2027

$50 loss.

Cost base resets to $150. Sold for $100. No indexation: losses are never indexed.

Taxed in 2029-30 year**:** the $50 loss offsets the gross $50 gain at step 1, before any discount. Result = NIL.

Note: Losses apply before the discount - so the loss post 30 June 2027 offsets the gain pre 1 July 2027.

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Working out a capital gain under indexation method

1

Index the cost base

Adjust each element of the cost base for inflation, using the indexation factors in Subdivision 960-M. The third element (the costs of owning the asset) is not indexed.

2

Subtract from the proceeds

Capital gain equals the capital proceeds less the indexed cost base. A higher indexed cost base produces a smaller gain.

3

Tax the real gain

The result is the real, inflation-adjusted gain. There is no 50% discount applied.

Note: If capital proceeds (eg $110) is greater than the cost base ($100) but less than the indexed cost base ($120), then no capital gain or loss.

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Losses applied to 4 different categories of gains

From 1 July 2027 apply capital **losses** in the following order.

1. **Deferred non-residential gains**

   Pre-1 July 2027 gain component on shares, trusts and commercial property etc

2. **Deferred residential gains**

   Pre-1 July 2027 gain component on a dwelling, for the time it provided residential accommodation.

3. **Non-residential gains**

   Post-1 July 2027 gain component on shares, trusts and commercial property etc.

4. **Residential gains**

   Post-1 July 2027 gain component on a dwelling, for the time it provided residential accommodation.

Why the order? Residential gains are last so a quarantined negative geared loss can be applied.

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The full method statement (s 102-5(1))

From 1 July 2027 the legislated order in s 102-5(1) has seven steps and first sorts gains into four categories: deferred non-residential, deferred residential, non-residential and residential.

1. Apply current year capital losses (including deferred pre 1 July2027 losses) across the **categories**, in that order
2. Apply left over carried forward net capital losses, in the same order
3. Apply the current year quarantined (neg gearing) amount to remaining **deferred residential** gains
4. Apply any remaining quarantined (neg geared) amount to remaining **residential** gains
5. Apply the discount percentage to any discount capital gains i.e. gains accrued up to 1 July 2027
6. Apply the small business CGT concessions, if relevant
7. **Add up the remaining gains: this is your net capital gain**

Case study

In the 2029-30 income year David makes a non-residential a capital gain of $50,000 and a residential capital gain of $80,000. The assets were acquired post 30 June 2027.

He has

- $20,000 of current year capital losses
- $10,000 of prior year losses
- $15,000 of quarantined losses.

What is David's assessable gain?

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Working out your net capital gain

Method statement step	Non-residential	Residential
Step 1 Reduce $50,000 gain by current-year capital losses ($20,000)	$30,000	$80,000
Step 2 Apply prior-year net capital losses ($10,000)	$20,000	$80,000
Step 3 Apply quarantined amount to deferred residential gains (none)	$20,000	$80,000
Step 4 Apply quarantined amount to residential gains ($15,000)	$20,000	$65,000
Step 5 Apply CGT discount (0 per cent: indexation applied instead)	$20,000	$65,000
Step 6 Apply small business concessions (none)	$20,000	$65,000
Step 7 Add up remaining gains	$20,000	$65,000
Net capital gain (step 7) $20,000 + $65,000 = **$85,000**		

David's losses

$20,000 of current year capital losses

$10,000 of prior year losses

$15,000 of quarantined losses.

Losses would be applied to deferred non-residential then residential gains first

Case study

In the 2029-30 income year David makes a non-residential capital gain of $60,000 and a residential capital gain of $10,000. Both assets were acquired after 30 June 2027. His only losses are $15,000 of quarantined (negatively geared) losses.

What is David's net capital gain?

a) $55,000

b) $60,000

c) $70,000

Treatment of quarantined (neg geared) amounts

Summary: A quarantined amount is the net rental loss from a residential dwelling acquired after 7.30pm AEST on 12 May 2026 that you cannot deduct this year but remain to be deducted. It can only reduce residential gains, in this order.

Reduce deferred residential gains

Apply the quarantined amount for the year to any deferred residential gains still left after step 2.

Then reduce residential gains

Apply any quarantined amount left over to the residential gains still left after step 3.

Note: A quarantined amount can never reduce non-residential gains, and it cannot be deducted against salary or other income. Anything still unused is carried forward to the next income year.

Minimum 30% tax calculation on gains

Rule	Minimum 30% tax on capital gain accrued post 1 July 2027 Note: Calculated at ‘effective’ rate of tax (not MTR).
Exclusions	• section 115-102 (new residential dwellings), and • section 115-125 (affordable housing) • Individual’s in receipt of an income support payment
Deductions	Minimum tax on capital gains is reduced to reflect the following charitable donations (only):Division 30 (gifts made to DGRs) and division 31 (deduction for permanently restricting land use for conservation purposes)

Example - Calculating min CGT at 30% (effective rate!)

Genevieve sells listed shares in the 2029 income year and realises a $50,000 capital gain. Her other income is $40,000 making her total taxable income $90,000.

She is not eligible for an income support payment and her capital gain is subject to the minimum 30% tax

THE SEVEN STEPS

Step	Method statement in subsection 119-10(2)	Amount
1	Minimum tax capital gain multiplied by 30 per cent ($50,000 x 30%)	**$15,000**
2	**Basic 2029 tax liability on $90,000, disregarding Division 119 (s 4-10(3))**	**$17,252**
3	Basic tax on the remaining $40,000, with the $50,000 gain excluded	**$3,052**
4	**Step 2 less step 3 ($17,252 less $3,052)**	**$14,200**
5	Step 1 less step 4 ($15,000 less $14,200)	**$800**
6	**Round down to a whole dollar. Not relevant, the amount is already whole.**	**$800**
7	Result is more than nil, so this is the minimum tax gap amount (top up tax)	**$800**

Result Genevieve has an **$800 minimum tax gap amount** for the 2029 income year.

SB CGT concession changes

- No changes to small business CGT concessions - except the turnover threshold for accessing the 50% active asset reduction has been increased from $2m to $10m from 1 July 2027.

- Note the abolition of the discount from 1 July 2027 means that a taxpayer will no longer to totally exempt a capital gain of up to $2m under the SB CGT concessions (apart from under the 15-year exemption)

Impact of 50% discount on SB CGT concessions

With 50% discount		
Step	Amount applied	Remaining gain
Capital gain		$2,000,000
Less 50% discount	($1,000,000)	$1,000,000
Less 50% active asset reduction	($500,000)	$500,000
Less $500,000 retirement exemption	($500,000)	Nil
Remaining assessable gain		Nil

Without 50% discount		
Step	Amount applied	Remaining gain
Capital gain		$2,000,000
Less 50% active asset reduction	($1,000,000)	$1,000,000
Less $500,000 retirement exemption	($500,000)	$500,000
Remaining assessable gain		$500,000

Detail still to come

1. Defining a new residential dwelling
2. Setting the apportioning method
3. Adding further carve-outs
4. Consulting on unresolved issues

LRBAs on residential property banned

SMSF LRBAs: residential property banned

New paragraph 67A(2)(c) of the SIS Act limits LRBAs over real property to business real property. A fund can no longer borrow to buy residential investment property or more accurately real property that isn't BRP.

1 Real property that is BRP only

An LRBA can only acquire real property that is business real property within the meaning of section 66 – used wholly and exclusively in one or business'

2 All real property that is not BRP is out

New borrowings cannot acquire residential property, regardless of the tenant or the terms of the arrangement.

3 Other assets untouched

LRBAs over listed shares and other permitted assets are unaffected. Buying residential property without borrowing also remains possible.

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Addition to s 67(A)(2)

Section 67A provides an exception to borrowing restrictions for Limited recourse borrowing arrangements where the money is or has been applied for the acquisition of a single **acquirable asset**.

Section 67 (A) (2)

Meaning of **acquirable asset**

(2) An asset is an ***acquirable asset*** if:

a) the asset is not money (whether Australian currency or currency of another country); and

b) neither this Act nor any other law prohibits the RSF trustee from acquiring the asset.

c) for an asset that is real property – the asset is business real property within the meaning of section 66 of this act

Commencement and grandfathering

1 Key dates

45 days after Royal Assent (10 August 2026)

Schedule 5 commences. New borrowings on property from this day must be over business real property.

Before commencement

Existing LRBAs continue under the current rules.

2 What is grandfathered

- Borrowing arrangements entered into before commencement.
- Refinancing of those existing borrowings.
- Assets acquired under a contract entered into before commencement, even if settlement occurs after.

LRBA changes: what remains uncertain

1. **No explanatory memorandum**

   The ban was a late Senate amendment under the Labor-Greens deal. There is no EM explaining how it is intended to operate.

2. **Timing of the BRP test**

   The Act does not say whether BRP is tested at contract, settlement or over the life of the loan. Off-the-plan commercial premises are unclear.

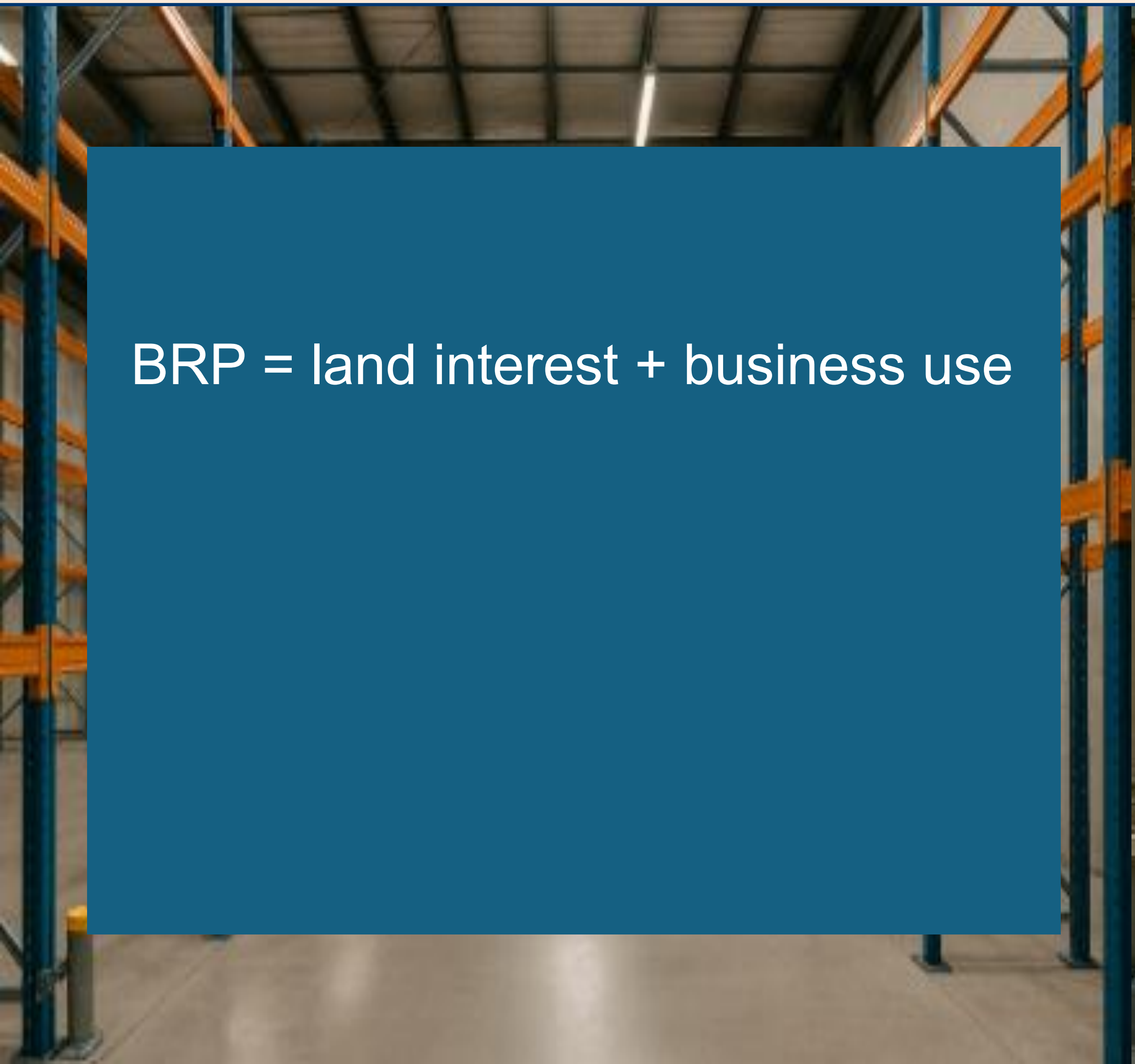
3. **Change of use mid-loan**

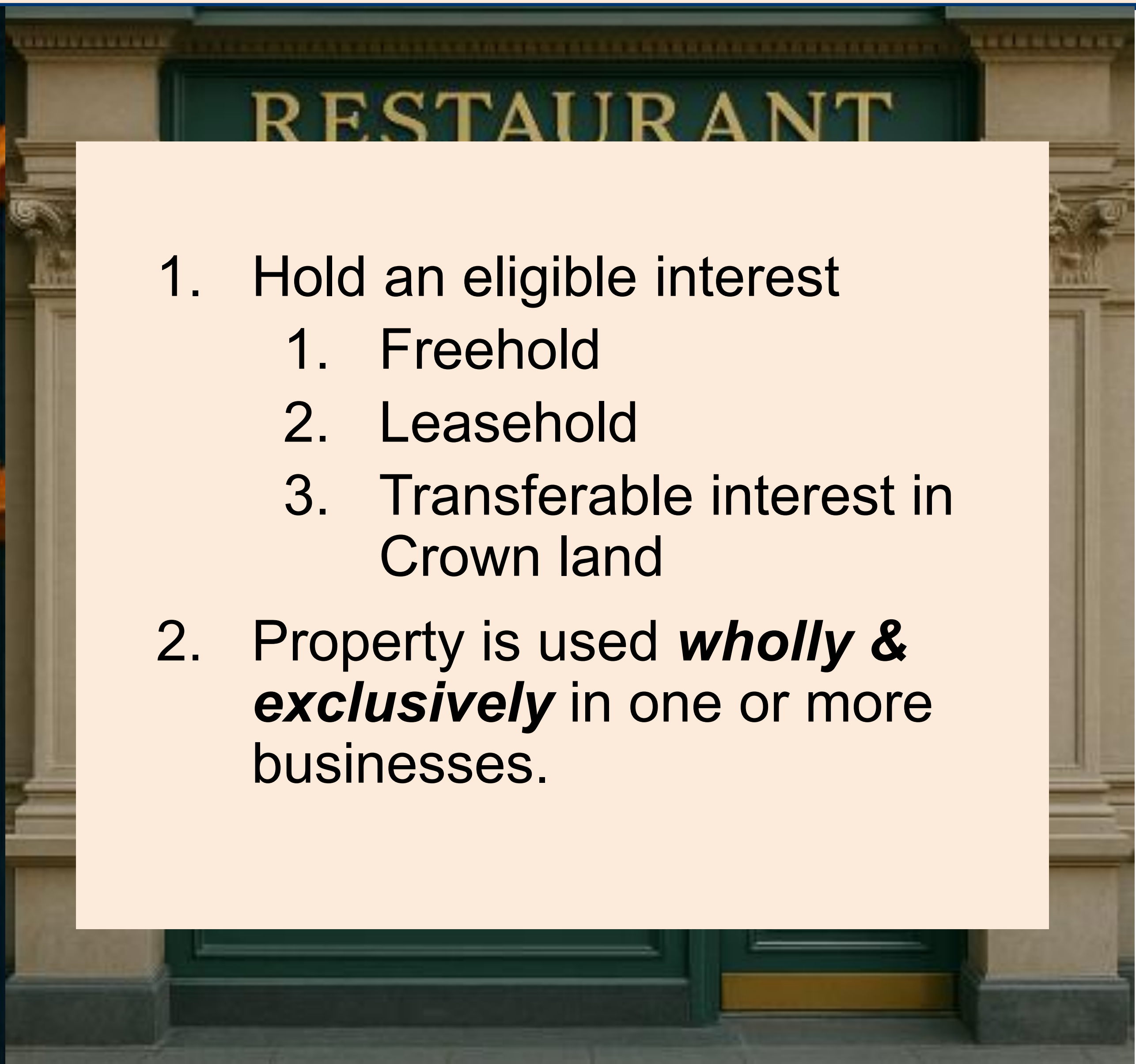
   If the tenant leaves and business use stops, the Act is silent on the consequences for the borrowing.

4. **Not a clean residential ban**

   The test is BRP, not zoning. Residential property used wholly in a business may qualify; commercial property partly used in a business will not.

Business Real Property





BRP = land interest + business use

1. Hold an eligible interest
    1. Freehold
    2. Leasehold
    3. Transferable interest in Crown land
2. Property is used ***wholly & exclusively*** in one or more businesses.

Business Real Property

- Fixtures forming part of the land
    - *What is attached to the land belongs to the land*:
- Two factors considered
    - degree of attachment
    - intention of attachment (tested objectively).

Business use test

Business use test = used wholly and exclusively in a business

- Standard is strict, but ATO allows minor or trifling non-business use that doesn’t interfere with business operations
- Mixed use eg, private use will fail BRP
- Primary production carve-out BRP can still qualify where private dwelling area is ≤ 2 ha and domestic use isn’t primary
- ATO looks at facts “at the time” (eg, time of acquisition from related party) and whether any change in use is substantive and enduring

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