



# Budget 2017

## Reducing Pressure on Housing Affordability

# Boosting affordable housing for Australians through investment tax incentives

The Government's comprehensive and targeted plan will create the right incentives to encourage investment in affordable rental housing.

### The issue

The Government recognises the importance of investing in affordable housing to meet the housing needs of Australians now and into the future. This is why the Government is introducing tax incentives to boost investment in affordable housing.

### Increasing the capital gains tax (CGT) discount for investors in affordable housing

From 1 January 2018, the Government will provide an additional 10 per cent CGT discount to resident individuals investing in qualifying affordable housing. This means investors in qualifying affordable housing will be entitled to a 60 per cent discount on capital gains tax.

To qualify for the additional discount, housing must be provided at below market rent and made available for eligible tenants on low to moderate incomes. Tenant eligibility will be based on household income thresholds and household composition.

The affordable housing must also be managed through a registered community housing provider and the investment held as affordable housing for a minimum period of three years.

The additional discount will be pro-rated for periods where the property is not used for affordable housing purposes.

### Impact

Resident individuals investing in qualifying affordable housing will be eligible to receive the additional CGT discount. Non-residents will continue to be ineligible for the CGT discount.

The additional discount will also flow through to resident individuals investing in qualifying affordable housing through Managed Investment Trusts (MITs) where the property has been held for a minimum of three years (see next section).

Consistent with current rules, non-residents investing in eligible affordable housing through a MIT will not receive the additional CGT discount. However, they will generally be subject to a 15 per cent final withholding tax rate on capital gains after a qualifying investment period of 10 years.

### Budget impact

This measure is estimated to have a cost to revenue of \$15.0 million over the forward estimates period.

## Encouraging Managed Investment Trusts (MITs) to invest in affordable housing

For income years starting on or after 1 July 2017, the Government will introduce new rules that enable MITs to acquire, construct or redevelop property to hold for affordable housing. Under the current law, the ATO has generally taken the view that investment in residential property is active, with a primary purpose of delivering capital gains from increased property values, and therefore taxed on income at a 30 per cent rate as it is not eligible for the MIT tax concessions which apply to passive investments only.

Consistent with current MIT withholding tax rules, non-resident investors who invest in these MITs from countries with which Australia has a recognised exchange of information arrangement, will generally be subject to a concessional 15 per cent final withholding tax rate on investment returns, including income from capital gains.

Resident investors in these MITs will continue to be taxed on investment returns at their marginal tax rates. Income from capital gains will be eligible for the increased CGT discount of 60 per cent, where applicable.

MITs must hold, and make available for rent, affordable housing assets for at least 10 years.

Should these assets be held for a period of less than 10 years, non-resident investors can still receive the concessional 15 per cent final withholding tax rate on investment returns, but will be subject to a 30 per cent final withholding rate on the proceeds of any capital gains.

Further, MITs must ensure that at least 80 per cent of their income is derived from affordable housing in an income year. Failing that, non-resident investors will be subject to a 30 per cent final withholding rate on all investment returns for any year this requirement is not met.

### Impact

Foreign institutions and non-resident investors will now be able to invest in affordable housing through concessional tax MITs.

Resident individual investors will be able to pool their money with others to invest in qualifying affordable housing and receive the CGT discount, including the additional discount.

These changes create the right incentives to make more affordable housing available for Australians.

### Budget Impact

This measure is estimated to have an unquantifiable cost to revenue over the forward estimates period.

## Questions and Answers

How will affordable housing be defined and who will be eligible?

- A property will qualify as 'affordable' housing if rent is charged at below market rate and it is made available for eligible tenants on low to moderate incomes.
- Tenant eligibility will be based on household income thresholds and household composition.
- The Government will consult further on the implementation of this policy, including on the precise definition of affordable housing and tenant eligibility, and what qualifies as rent charged below the market rate.

What role will Community Housing Providers (CHPs) have in managing affordable housing investments?

- To qualify for the additional 10 per cent CGT discount, the affordable housing must be managed through a registered CHP.
- CHPs will match eligible tenants with properties. Requiring individuals to have their property managed through a CHP will ensure the additional discount is provided for recognised affordable housing assets.

What is a registered CHP?

- Currently most CHPs are regulated under the National Regulatory System for Community Housing, which is monitored and enforced by state based community housing registrars.
- As part of the package to reduce pressure on housing affordability the Government will work with State and Territory governments to strengthen the national regulation of community housing providers.

I currently invest in affordable housing through the National Rental Affordability Scheme (NRAS). Will my NRAS investment be entitled to the 60 per cent CGT discount from 1 January 2018?

- NRAS investments will not be eligible for the additional discount until they cease to be covered by NRAS. This is because NRAS providers already receive an annual financial incentive to supply affordable housing.

Can I claim the additional 10 per cent CGT discount for periods where the property was used for affordable housing before I purchased it?

- Any period prior to purchase where the property has been used for affordable housing purposes will count towards the buyer's qualifying investment period, if the previous owner has not claimed the additional discount, and the property is used for affordable housing for an aggregate period of at least three years from 1 January 2018.

Why is there a minimum period for the property to be used for affordable housing?

- To qualify for the 60 per cent CGT discount, an investment property must be supplied for affordable housing for a period in aggregate of at least three years from 1 January 2018. The additional discount will be pro-rated for periods where the property is not used for affordable housing purposes.

- Requiring a minimum holding period is intended to encourage longer term investment in the supply of affordable housing, supporting the Government's aim of providing affordable housing for low income Australians.
- In relation to MITs, the minimum holding period will also reinforce that the investment by the MIT is primarily passive, and therefore consistent with current MIT rules.

What if I'm not a resident from a country with which Australia has a recognised exchange of information agreement?

- Foreign residents of non-Exchange of Information countries will be subject to a final withholding tax rate on fund payments of 30 per cent. This is consistent with the treatment of investors in existing MITs.

Will the additional 10 per cent CGT discount apply only to investments in new affordable housing?

- The additional 10 per cent CGT discount will apply to investments in both new and existing affordable housing.
- This means that, investors who elect to supply their existing properties for affordable housing will qualify for the additional 10 per cent discount from 1 January 2018, provided the investment meets the eligibility requirements.

Will superannuation funds be eligible to claim the additional 10 per cent CGT discount?

- No. Superannuation funds already benefit from a lower tax rate of 15 per cent on earnings and a generous 33 $\frac{1}{3}$  per cent discount on income subject to CGT.

