Contents

The	Smal	l Busin	ess CGT Concessions and Superannuation 10			
	Intro	duction	າ10			
Note	es abo	out this	s Guide11			
	The Small Business CGT Concessions11					
	Small business entities					
	Earn	out arr	angements12			
Par	t A.					
Roa	dma	p - S	mall business CGT concessions and superannuation .14			
A.	A. Suggested roadmap for approaching the SBCs and superannuation					
	A.1	Entity	has sold an active asset (Roadmap A1)15			
	A.2	Plann	ing ahead to access the SBCs (Roadmap A2)17			
Par	t B.					
Sati	isfyir	ng the	basic conditions			
1.	Satis	sfying	the basic conditions			
	1.1	Introd	luction			
	1.2 <u>Scenario 1</u> – The business entity is selling the assets					
		1.2.1	Scenario 1 – When will the entity be a 'CGT small business entity'? 25			
		1.2.2	Scenario 1 – When will the business entity satisfy the \$6 million net asset value test?			
		1.2.3	Planning points – Maximum net asset value test			
		1.2.4	Scenario 1 – Maximum net asset value test or the CGT small business entity test: which is better?			

		1.2.5	Scenario 1 – Applying the 'active test' to the business entity			
1.3 <u>Scenario 2</u> – Passive entity is selling active assets						
		1.3.1	Scenario 2 – Passive entities and the CGT small business entity test			
		1.3.2	Scenario 2 - Passive entities and the maximum net asset value test45			
		1.3.3	Scenario 2 – Applying the 'active test' to a passive entity			
1.4 <u>Scenario 3</u> – The taxpayer is selling shares or units in a compa						
			or trust			
		1.4.1	Applying the general active asset test for shares (the '80% test')			
		1.4.2	Additional basic conditions for the small business CGT concessions51			
Par	t C.					
The	CGT	orde	ring rules62			
2			a vilacala tha CDCa annolis			
3.	The	oraer II	n which the SBCs apply			
		oraer II	n which the SBCs apply			
Par	t D.					
Par	t D.		the SBCs			
Par	t D. alifyir	ng for				
Par Qua	t D. alifyir	ng for	the SBCs			
Par Qua	t D. alifyir Qual	ng for	the SBCs			
Par Qua	t D. alifyir Qual	ng for ifying	the SBCs			
Par Qua	t D. alifyir Qual	ifying 15-ye:	the SBCs			
Par Qua	t D. alifyir Qual	ifying 15-yes 4.1.1 4.1.2	the SBCs			
Par Qua	t D. alifyir Qual	15-yes 4.1.1 4.1.2 4.1.3	the SBCs			
Par Qua	t D. Alifyir Qual 4.1	15-yes 4.1.1 4.1.2 4.1.3	the SBCs			
Par Qua	t D. alifyir Qual 4.1	15-yes 4.1.1 4.1.2 4.1.3	the SBCs			

		4.3.3	Retirement exemption – Eligibility requirements for a company or trust 83	
		4.3.4	Retirement exemption – Planning points to note about the exemption (companies and trusts)	
	4.4	Small	business rollover - What are the eligibility requirements? 89	
		4.4.1	Small business rollover – What are the consequences of choosing to apply the rollover?	
		4.4.2	Small business rollover – What assets and expenditure qualify as a replacement asset?	
		4.4.3	Small business rollover – What happens if insufficient expenditure is incurred or no asset is acquired in the two-year replacement period? 95	
		4.4.4	What are the consequences of CGT event J5/J6 occurring?	
		4.4.5	What happens if the asset changes after the replacement asset period has expired?	
Part Con		ting to	o superannuation – Initial review106	
5.	Conti	ributin	g to superannuation – Initial review	
	5.1	Does	the taxpayer intend to make a superannuation contribution? 107	
	5.2	Impor	tant considerations when determining whether to	
		contri	bute to superannuation108	
	5.3	.3 Differences between the non-concessional contributions cap and the CGT cap		
	5.4	Revie	w the acceptance rules111	
	5.5	Plann	ing opportunities and pitfalls with CGT contributions112	
Part	t F.			
Арр	lying	the C	GT cap114	
6.	The	ጉርT ቦል	ар	

6.1	General characteristics of the CGT cap116				
6.2	Contributing to superannuation using the CGT Cap – 15-year exemption (individuals)				
6.3	Requi	rements to be satisfied under S.292-100 (CGT cap) for			
	compa	anies or trusts applying the 15-year exemption120			
6.4	Table – Summary of time limits under the CGT cap				
	(15-ye	ear exemption)126			
	6.5.1	Requirements to be satisfied under S.292-100 (CGT cap) for individuals applying the retirement exemption			
6.6	Applyi	ng the CGT cap to contributions – retirement exemption			
	(comp	panies or trusts)			
6.7	Table	– Summary of time limits under the CGT cap			
	(retire	ment exemption)			
6.8	Planning strategies – CGT cap142				
	6.8.1	General CGT cap strategies			
	6.8.2	What are some of the differences between the retirement exemption			
		and the 15-year exemption?144			
	6.8.3	CGT cap planning with the 15-year exemption			
	6.8.4	CGT cap planning with the retirement exemption			
6.9	In specie transfers of property into an SMSF using the 15-year or the retirement exemption				
	6.9.1	ATO informal view - Simultaneous in specie contribution using the			
		15-year exemption and the CGT cap (individual)149			
	6.9.2	ATO informal view – Simultaneous in specie contribution using the retirement exemption and the CGT cap (individual aged at least 55) 150			
	6.9.3	ATO informal view – Simultaneous in specie contribution from a discretionary trust to beneficiaries and then into the fund			
	6.9.4	ATO informal view – Individual under 55 applying the retirement exemption 153			

Part G.

Practitioner questions regarding the SBCs and the CGT cap157				
7.	Practitioner Questions			
	7.1	Basic conditions	158	
	7.2	15-year exemption	165	
	7.3	Retirement exemption	175	
	7.4	Small business rollover	177	
	7.5	CGT cap	181	
Арр	endi	x	185	
Арр	endix	1 - The concept of a 'connected entity'	186	
Арр	endix	2 - Integrity rule relating to the sale of shares or units -		
		50% active asset reduction	190	
Арр	endix	3 – Meaning of CGT concession stakeholder, significant		
		individual & participation percentage	195	
Арр	endix	4 - Meaning of 'affiliate'	201	
Арр	endix	5 - Death and the small business CGT concessions	206	
Арр	endix	6 - Earnout arrangements and the small business CGT		
		concessions	208	
Арр	endix	7 - CGT cap election	213	
Арр	endix	8 - Sample S.152-325(7) notice from a company or trust t	оа	
		superannuation fund (retirement exemption)	216	
Арр	endix	9 - Record of CGT exempt amount	217	