



# Newsflash

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## Draft legislation on small business CGT concessions

As keenly anticipated, the Treasury has released draft legislation to make significant and important changes to the small business CGT concessions. The proposed changes, as were briefly discussed by the Federal Government in the 2008/09 budget, will attempt to increase access to the small business CGT concessions for taxpayers owning a CGT asset that is used in the business of a related entity.

A currently experienced problem with the small business CGT concessions is that small business entities are not able to attract the CGT small business concessions where business structures are such that a CGT asset is owned by one entity but yet used in the business of a related entity.

Further, in the situation of partnerships, the small business entity test requires the taxpayer making a capital gain to be a partner in the partnership and for the asset to be an asset in the partnership.

Designed for effect from the 2007/2008 year, the proposed amendments will allow a taxpayer owning a CGT asset, but which is used in a business

by a taxpayer's affiliate, or an entity connected with a taxpayer, to access the small business CGT concessions via the \$2m aggregated turnover test.

The amendments also allow partners who own a CGT asset that is used in a partnership business to access the small business CGT concessions via the \$2m aggregated turnover test where the CGT asset is not an asset of the partnership.

In addition to the critical amendments discussed above, the draft legislation proposes to clarify various aspects of the existing CGT small business concession provisions by making a number of smaller changes.

It is expected, that the legislation in its draft form, will progress with the consultation of small business and private practice tax consultants and be released as a final draft early in the new year of 2009.

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