Vicki has a Major Tax Problem

How much additional tax will be payable as a result of the removal of the CGT Main Residence Exemption?

When the Federal Liberal Government signalled changes in the May 2017 Budget to the main residence capital gains tax exemption for foreign residents, which includes Australian expatriates, they included a number of examples illustrating the impact of the proposed changes. One of these was **Example 1.2** contained within the Explanatory Memorandum:

> Vicki acquired a dwelling on 10 September 2010, moving into it and establishing it as her main residence as soon as it was first practicable to do so.
>
> On 1 July 2018 Vicki vacated the dwelling and moved to New York. Vicki rented the dwelling out while she tried to sell it. On 15 October 2019 Vicki finally signs a contract to sell the dwelling with settlement occurring on 13 November 2019. Vicki was a foreign resident for taxation purposes on 15 October 2019.
>
> The time of the CGT event A1 for the sale of the dwelling is the time the contract for sale was signed, that is 15 October 2019. As Vicki was a foreign resident at that time she is not entitled to the main residence exemption in respect of her ownership interest in the dwelling.
>
> Note: This outcome is not affected by
>
> - Vicki previously using the dwelling as her main residence; and
> - the absence rule in section 118 - 145 that could otherwise have applied to treat the dwelling as Vicki's main residence from 1 July 2018 to 15 October 2019 (assuming all of the requirements were satisfied) .

Remember in this context that had Vicki moved to Perth, Brisbane or elsewhere in Australia – for personal or business reasons - then she would have retained the main residence capital gains tax exemption and would have **zero liability** for capital gains tax on sale of her property in Melbourne.

The absence of concrete figures used in any example means that the severity of these new changes is not fully appreciated. On the following page we look at the financial impact to Vicki of selling a house based on a number of scenarios in terms of house value, and making some broad assumptions regarding purchase and sale costs. The intention is to simply provide an indication of the tax penalty imposed on Vicki simply because she moved overseas, rather than domestically, before selling her home.

A quick word about the assumptions we made in the Attachment. Firstly, we have taken the Australian Bureau of Statistics (ABS) real estate pricing information and used their index to inflate the value of property from 2010 – but assuming no increase in pricing from the date of the last index report, December 2017, to October 2019; a reasonably conservative assumption. Secondly, only stamp duty associated with the purchase of the new property and an allowance for legal costs, plus marketing and legal costs of 2% on the property sale, are included as capital deductions. Again conservative, but in reality this is the area where professional advice can very significantly reduce tax exposure. Thirdly, we have assumed that the 50% capital gains tax discount would be available to Vicki only in relation to that part of the capital gain made prior to May 8, 2012.

How much will the Removal of the CGT Main Residence Exemption cost Vicki?

	ABS Index	Different House Values in 2010 projected forward				
Purchase Price 10/9/10	104.3	$600,000	$800,000	$1,000,000	$1,000,000	$2,000.000
Sale Price 15/10/19	154.3	$887,632	$1,183,509	$1,479,386	$2,219,080	$2,958,773
Gross Capital Gain		**$287,632**	**$383,509**	**$479,386**	**$719,080**	**$958,773**
<u>Capital Deductions</u>						
Stamp Duty		$31,070	$43,070	$55,000	$82,500	$110,000
Legal Costs		$1,200	$1,200	$1,200	$1,200	$1,200
Sale Costs (2%)		$17,753	$23,670	$29,588	$44,382	$59,175
		$50,023	$67,940	$85,788	$128,082	$170,375
Capital Gain		**$237,609**	**$315,569**	**$393,599**	**$590,998**	**$788,397**
50% Discount on Capital Gain made from 10/9/10 to 8/5/2012	99.3	Nil – Prices Decreased	Nil – Prices Decreased	Nil – Prices Decreased	Nil – Prices Decreased	Nil - Prices Decreased
Taxable Capital Gain		**$237,609**	**$315,569**	**$393,599**	**$590,998**	**$788,397**
Indicative Tax Payable (Non Resident Rates)		**$88,609**	**$123,691**	**$158,805**	**$247,634**	**$336,464**

Disclaimer: As mentioned previously, the figures above are intended as indicative figures – showing the potential additional tax payable based on the loss of the main residence CGT exemption in different situations. **We recommend that no sale of an Australian property is made by an Australia expatriate without specific prior tax advice to assess any liability and mitigate, where possible, that liability**. Exfin can provide access to professional tax advice and no cost or commitment attaches to any initial discussion, with fee quotations provided in advance of any advice or services being rendered.

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