



## Vacant land and subdividing

Find out the tax treatment and if you can claim deductions for holding, selling or subdividing vacant land.

### Deductions for vacant land

Work out if you can claim a deduction for the costs incurred in holding vacant land on or after 1 July 2019.

### Vacant land before 1 July 2019

Work out if you can claim deductions for vacant land before 1 July 2019, also if CGT and GST apply.

### Subdividing land

If you subdivide a block of land, there may be tax implications such as capital gains tax (CGT) or GST.

QC 45084

## Deductions for vacant land

Work out if you can claim a deduction for the costs incurred in holding vacant land on or after 1 July 2019.

**Last updated** 10 January 2025

## On this page

Claiming deductions for vacant land on or after 1 July 2019

Entities not affected

What is vacant land?

Farmland not vacant land

Costs of holding vacant land

Claiming deductions for vacant land

Land containing substantial and permanent buildings or other structures

Apportionment of expenses involving vacant land

Land used in business

Land held by primary producers

Exceptional circumstances exemption

Capital gains tax (CGT)

## Claiming deductions for vacant land on or after 1 July 2019

You can't claim a deduction for expenses to hold vacant land incurred on or after 1 July 2019. There are exceptions where:

- you are a [particular kind of entity](#)
- the [land is used in carrying on a business](#)
- you [hold the land as a primary producer](#).

For information about claiming deductions for vacant land prior to 1 July 2019, see [Vacant land before 1 July 2019](#).

## Entities not affected

Some entities and taxpayers with particular circumstances will still be able to claim deductions for costs incurred in holding vacant land on or after 1 July 2019. For example, where the entity holding the land is a

company, the land is used in carrying on a business, or where exceptional circumstances apply.

You can continue to claim deductions for expenses incurred for holding vacant land if you are a:

- corporate tax entity
- superannuation plan (other than self-managed superannuation funds)
- managed investment trust
- public unit trust
- unit trust or partnership where all the members are entities on this list.

## What is vacant land?

Land will be considered vacant during the period the entity held the land if:

- it didn't contain a [substantial and permanent structure](#)
- it [contains a substantial and permanent structure](#) and the structure is a residential premises which was constructed or [substantially renovated](#) while the entity held the land and the premises are either
  - not yet lawfully able to be occupied
  - lawfully able to be occupied but not yet rented or made available for rent.

Certain purchasers of **potential residential land** are now required to withhold an amount from the price of that land for payment to us.

## Substantial and permanent structures

A substantial and permanent structure is a building or other structure constructed on the land that is:

- significant in size or value
- not incidental to the purpose of another structure or proposed structure on the land
- not related to, reliant on, or exist to support the use or function of another structure

- fixed and enduring (not built for a temporary purpose).

Structures that are **substantial** and permanent include:

- a commercial parking garage complex
- a woolshed for shearing and baling wool
- a grain silo
- a homestead on a farming property.

A structure is **not substantial** and permanent if it only has value as an addition to another structure.

Structures that are not substantial and permanent include:

- a residential garage or shed
- a letterbox
- pipes and powerlines
- residential landscaping.

### **Example: residential premises with no permanent structure**

Chelsy owns a residential block of land on which she intends to build a rental property. Although the block of land is fenced and has a retaining wall, it doesn't yet contain any substantial and permanent structures. This means the block is vacant land and Chelsy can't deduct any holding costs she may incur in relation to the land.

As the property is residential, property deductions will be limited until such time as the property contains residential premises that are both:

- lawfully able to be occupied
- rented or available for rent.

### **Example: tiny house – no permanent structure**

Shaun purchases vacant land which remains vacant and doesn't produce any income until he rents the land to Cameron. Cameron places a tiny house he owns on the land without any connection to utilities. Shaun is not in the business of renting land.

The tiny house is considered temporary rather than permanent structure. This is shown by the fact that it is easily removable and not fixed to the land by a concrete slab or stumps.

Shaun's land is vacant land as it doesn't have a permanent structure on it. Shaun can't claim costs of holding vacant land during the time the tiny house is on the land. Any income Shaun earns from renting out the land is assessable income and must be reported in his tax return.

### **Example: tiny house – permanent structure**

Sara buys a block of vacant land in 2018 intending to build an investment property. Due to financial pressures, she changes her plans and decides instead to buy a prefabricated tiny house, complete with cement foundations and inbuilt utilities. As soon as it is installed and it is lawfully able to be occupied, Sara makes it available for rent. Sara is not in the business of renting land.

As the tiny house is fixed to the land, it is considered a permanent structure which is independent rather than incidental. As the land now contains a permanent and substantial structure and is rented, Sara can claim deductions for costs of holding land.

## **Substantial renovations**

Substantial renovations of a building are renovations in which all or substantially all, of a building is removed or is replaced. The renovations may, but don't have to, include the removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases.

The term 'substantial renovations' is defined in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

### **Example: substantial renovations**

Mary-Anne, a builder, acquires a dilapidated bungalow that has 3 bedrooms and one bathroom. Mary-Anne intends to renovate and rent the bungalow.

Mary-Anne adds an upstairs extension which creates a new bedroom and a bathroom. As part of the extension, she replaces the roof of the bungalow and all ceilings on the lower level.

The renovations to the lower level include rewiring, repairing cracked walls by removing and replacing all the gyprock and cement rendering the exposed bricks in the combined family room and kitchen.

The installation of stairs necessitated the removal of 2 walls and replacement of the floor in 2 of the ground floor rooms. Mary-Anne also does some cosmetic work by repainting, polishing floorboards, and replacing all the fittings in the kitchen and bathroom.

The work undertaken by Mary-Anne constitutes substantial renovations. All of the rooms in the house are affected by the work and several of the rooms have undergone structural renovation work. A substantial part of the bungalow is removed and replaced in undertaking the renovation work. The cosmetic work hasn't been taken into account when deciding whether substantial renovations have occurred.

Mary-Anne must disregard the bungalow in determining whether there is a substantial and permanent structure on her land, as the bungalow is being substantially renovated. Mary-Anne's land is considered vacant and she can't claim deductions for holding expenses incurred during the substantial renovations and until the renovated bungalow is rented or available for rent and lawfully able to be occupied.

For more information, see *GSTR 2003/3 Goods and services tax: When is a sale of real property a sale of new residential premises?* (paragraphs 53 – 83).

## **Farmland not vacant land**

In most circumstances, farmland won't be considered vacant land as it contains a variety of substantial and permanent structures.

### **Example: farmland not vacant – substantial structure**

The AB family trust holds a single title parcel of farmland on which 2 family members carry on the business of growing grain. The land contains a number of silos used to store the grain. Expenses related to holding the land such as interest costs and council rates aren't affected because the land isn't vacant as there is a substantial permanent structure on that land (the silos).

### **Example: farmland not vacant – family homestead**

John and Mary have a large parcel of farmland. The land contains a homestead that has been on the land for more than a century and is the family home. John and Mary's farmland isn't vacant; the land contains a substantial structure (the homestead).

John and Mary's ability to claim deductions for their holding cost expenses will depend on whether any of the land is also being used to generate assessable income.

### **Example: farmland not vacant – fencing a substantial and permanent structure**

Paul has a block of land that he uses for sheep grazing. The land doesn't contain any sheds or silos however, it is fully fenced and gated with woven wire and fixed wooden posts to enable the land to be used for sheep grazing.

Paul can claim deductions for the holding costs of the land because in the context of the land the fencing is considered a substantial and permanent structure with an independent purpose.

## Costs of holding vacant land

The costs involved in holding vacant land include:

- ongoing borrowing costs, including interest payments on money borrowed for the acquisition of land
- land taxes
- council rates
- maintenance costs.

The costs involved in holding vacant land don't include:

- the costs of repairing, renovating or constructing a structure on the land
- any interest or borrowings associated with repairs, renovation or construction of a structure on the land.

### **Example: interest expenses for construction loan not a cost of holding land**

Giovanna takes out a loan to purchase a vacant block of land. Giovanna intends to build a house on the land which she will rent out once built. Giovanna doesn't use the land in carrying on a business.

Once settlement on the land occurs, Giovanna takes out a separate loan for the construction of the house.

Giovanna can claim the interest costs for the construction loan but not the initial loan to purchase the vacant land. This is because interest expenses associated with constructing a structure on the land are not costs of holding land.

## Claiming deductions for vacant land

For expenses of holding land to be deductible, they must have been incurred in carrying on a business, such as farming, or in the course of gaining or producing assessable income. However, the deductions you could otherwise claim will be limited where the land is vacant.



Use the [determination questions](#) to help you determine if your deductions for expenses related to your vacant land are limited.

To claim deductions for vacant land the land must also meet one of the following:

- be held by a type of [entity not affected](#)
- be [used in a business](#)
- be [held by a primary producer and leased by other entities](#).

## **Land containing substantial and permanent buildings or other structures**

Land containing a substantial and permanent structure will not be considered vacant land.

However, if the substantial and permanent structure is residential premises constructed or substantially renovated while you held the land, the premises must also be lawfully able to be occupied and either:

- leased, hired or licensed
- available for lease, hire or license.

Land won't be treated as vacant if, due to [exceptional circumstances](#), either:

- there is no longer a substantial and permanent structure in use or available for use on the land
- the structure was residential premises and it was no longer able to be rented or made available for rent.

## **Apportionment of expenses involving vacant land**

Relevant costs of holding land may need to be apportioned if they relate to periods where land is treated as being vacant and when it is not.

### **Example: interest expense for single loan with multiple purposes**

John uses an investment loan to buy a block of vacant land. A few years later, John increases the balance of the investment loan to pay for the construction of a 2-storey townhouse which he intends to rent. John lists the townhouse with a real estate agent on 1 September being the day he receives the certificate of occupancy. John doesn't use the land in carrying on a business.

John can claim the interest expense for the investment loan that relates to the construction of the 2-storey townhouse. He'll need to apportion the interest expense to ensure he doesn't claim any portion that relates to the purchase of vacant land, until it is no longer considered vacant which is on 1 September. From 1 September, John can claim all of the interest expense.

### **Example: rental property constructed on vacant land – apportionment of expenses**

In January 2023, Kylie purchased a block of land in Yass to build a property for rent. In October as construction neared completion Kylie advertised for a tenant, and on 30 November 2023 she receives the certificate of occupancy.

Kylie can't claim deductions for expenses incurred in relation to holding costs of the land before 30 November 2023. Where the expenses are for a period that applies before and after the property is ready for use, the expense can be apportioned, and a deduction claimed for the period that the property is available for use.

For example, Kylie's council rates for the year ended 30 June 2024 are \$2,000. Kylie apportions the council rates according to when the property became available for use.

Holding expense × portion of year property was available = deductible amount

Kylie can claim a deduction against her rental income of:

$$\$2,000 \times (214 \div 366) = \$1,169$$

Kylie would also be able to claim a deduction for expenses incurred for advertising for a tenant as this is not considered a cost of holding vacant land.

### **Example: apportionment of garden maintenance expenses**

Patricia purchased a block of vacant land with the intention of building a property for rent. It took 2 years for construction to start and was completed 12 months later, on 30 September.

On 1 December Patricia receives the certificate of occupancy and immediately advertised for a tenant. The premises is tenanted soon after. On 1 July, whilst construction was still underway, Patricia pays a garden maintenance fee of \$1,200. This payment is an amount for 12 months of garden maintenance services costing \$100 per month.

The garden maintenance fee must be apportioned between the period that the land was considered vacant land, and the period that it was available for lease.

For the period July to November, the land is still considered vacant so Patricia can't deduct the expense of \$500 relating to this period (it can be added to the cost base of the property). For the 7-month period between December and June, where the property is leased or available for lease, the garden maintenance costs become deductible as they are incurred in producing assessable income and are not precluded from being claimed by the vacant land rules.

Patricia can claim \$100 per month for the 7-month period that the house is leased or available for lease within the financial year.

### **Determine if deductions for vacant land are limited**

You can use the following questions to determine if your deductions for expenses related to your vacant land are limited.

1. Is the land held by a corporate tax entity, superannuation plan (other than self-managed superannuation funds), managed investment trust, public unit trust or a unit trust or partnership where all the members are entities on this list?  
**Yes** – your deductions are not limited  
**No** – continue to question 2
2. Is the land used (or available for use) in a business carried on for the purpose of gaining or producing assessable income by you, your affiliate, or an entity of which you are an affiliate, your spouse, or any of your children (under 18 years of age) or an entity connected with you?  
**Yes** – your deductions are not limited  
**No** – continue to question 3
3. Is the land leased at arms-length to another entity and used or available for use in a business and it doesn't contain residential premises or such premises are not being constructed on it?  
**Yes** – your deductions are not limited  
**No** – continue to question 4
4. Is the land leased to another entity and you or an entity connected with you are carrying on a primary production business and the land doesn't contain residential premises or such premises are not being constructed on it?  
**Yes** – your deductions are not limited  
**No** – continue to question 5
5. Is there a substantial and permanent structure on the land which is used or available for use and has a purpose independent of, and not incidental to another structure?  
**Yes** – continue to question 6  
**No** – continue to question 8
6. Is the substantial and permanent structure residential premises constructed, or substantially renovated, while you held the land?  
**Yes** – continue to question 7  
**No** – your deductions are not limited
7. Are the residential premises lawfully able to be occupied; and either
  - a. leased, hired or licensed; or
  - b. available for lease, hire or licence?  
**Yes** – your deductions are not limited

**No** – continue to question 8

8. Did exceptional circumstances occur that led to a substantial and permanent structure no longer being on the land or used or available for use?

**Yes** – continue to question 9

**No** – your deductions will be limited

9. Did the exceptional circumstance occur 3 or more years ago?

**Yes** – continue to question 10

**No** – your deductions are not limited

10. Have you received an extension of time from the Commissioner?

**Yes** – your deductions are not limited

**No** – your deductions will be limited.

## Land used in business

If the vacant land is used in business, deductions for holding costs for the land are not affected if either:

- the land is used or available for use in carrying on a business to produce assessable income of
  - you
  - your affiliates or an entity of which you are an affiliate
  - your spouse or child (under 18)
  - an entity connected with you
- the land is leased at arm's length to another entity and
  - the land is used or available for use in their business and
  - the land does not contain residential premises and no such premises are being constructed on the land.

If only part of your vacant land is used in carrying on your business (for example, because the other part of the land is used to construct residential premises), you can only deduct the costs of holding the land that is being used or made available for use in the business. You can't deduct the holding costs for that part of the land relating to the construction of residential premises. The deductions should be apportioned on a fair and reasonable basis.

If due to COVID-19 restrictions the business use of your premises or land (including primary production) was suspended, your deductions for holding costs will not be limited if either the land or premises remain available for use during this period.

### **Example: land used in business – residential rental property being constructed**

Howard owns one hectare of land in Queensland. He uses one third of the land for carrying on his firewood sales business. He stores all his firewood in the open and there are no structures on the land. Howard has separately fenced off the remainder of the land and has started earthworks to clear the land ready for construction of a rental property.

Howard is eligible to claim losses and outgoings relating to holding the part of the land that he uses for carrying on his firewood business.

Howard is not entitled to claim any deductions relating to the costs of holding the land ready for construction of a rental property. This is because that land is to be used for residential premises which have not yet been constructed.

## **Land held by primary producers**

Deductions for land used by you in a business of primary production are not affected by these changes.

In addition, if you hold vacant land that is leased, hired or licensed to another entity, deductions can continue to be claimed where:

- a primary production business is carried on by
  - you
  - your affiliates or an entity of which you are an affiliate
  - your spouse or child (under 18)
  - an entity connected with you
- residential premises are not on the land or being constructed on the land.

If residential premises are being constructed on vacant land being used to carry on a primary production business, you can only claim a deduction for the costs of holding the land that is being used for primary production and not for that part of the land relating to the construction of residential premises. The deductions should be apportioned on a fair and reasonable basis.

You need to consider various indicators before you decide if you are in a business of primary production. For a comprehensive explanation of the relevant indicators together with examples of the application of the indicators, see Taxation Ruling TR 97/11 *Income tax: am I carrying on a business of primary production?*

### **Example: primary production exception**

Gina owns vacant land in New South Wales which she rents to her spouse Robin for use in his primary production business. Robin, as Gina's spouse, satisfies the related parties condition (spouses, children under 18 years old, affiliates and connected entities) that allows Gina to deduct her costs of holding the land. This is because Robin is carrying on a primary production business on the land to gain or produce assessable income.

### **Example: farming land in a trust**

Allan used to run a farming business on land held in the Allan Family Trust. To supplement Allan's retirement income, the Allan Family Trust rents a now vacant block of land (no structures or fencing) to a connected entity run by Allan's brother so it can be used in the connected entity's cropping business.

The Allan Family Trust will be able to claim holding costs for the land even though it is completely vacant because it is being used in carrying on the cropping business of the connected entity.

## **Exceptional circumstances exemption**

Deductions for holding costs of [vacant land](#) can still be claimed if the exceptional circumstances exemption applies.

The exemption may apply where an exceptional circumstance outside your control occurs, that results in the substantial and permanent structure no longer being on your land or the structure being disregarded.

Exceptional circumstances include:

- a natural disaster
- a major building fire
- substantial building defects (where the structure can no longer be lawfully occupied or used).

For the exemption to apply there must have been a substantial and permanent structure on the land prior to the time that the exceptional circumstance occurred.

If the substantial and permanent structure was residential premises that was constructed or substantially renovated, then the residence must have been lawfully able to be occupied and have been either rented or available for rent prior to the exceptional circumstance.

The exceptional circumstances exemption can apply even if the event that rendered the land vacant occurred before 1 July 2019 and the land is still vacant.

If before 1 July 2019 you were claiming deductions for vacant land, you will need to determine whether these changes now limit your deductions. If your land remains vacant (for example, because of delays in constructing a rental property due to financial hardship) you may not be able to claim deductions after 1 July 2019.

### **Three-year exceptional circumstances limit**

There is a limit of 3 years from the date of the exceptional circumstance to continue to claim deductions using this exception.

#### **Example: exceptional circumstances – substantial building defects**

Jennifer purchased an apartment in a multi-level building development in 2015. She rented out the apartment. In 2021, the building was found to have substantial building defects and was deemed to be uninhabitable. She could no longer lawfully rent out the apartment.



The substantial building defects would be an exceptional circumstance affecting the structure. Jennifer can continue to claim deductions for the costs of holding land for 3 years from the time the exceptional circumstance first occurred.

## Requesting an extension of time to the 3-year limit

You can apply to the Commissioner for an extension to the 3-year limit where the failure to rebuild is for reasons beyond your control.

A range of factors will be considered, including the length of time the land has been vacant and the steps taken to rebuild. Some of examples of delays beyond your control include:

- delays in council or local government approval
- your builder has ceased trading or gone into liquidation
- legal disputes.

We may refuse a request for an extension where either:

- you have not made a genuine attempt to rebuild
- the land is for sale.

To request an extension to the 3-year limit you will need to apply for a private binding ruling clearly stating:

- the exceptional circumstance that resulted in the land becoming vacant
- when the exceptional circumstance occurred (for example, when the premises were destroyed)
- the steps taken to rebuild
- why the exceptional circumstances exception should be extended for a period beyond 3 years.

### **Example: exceptional circumstances – major building fire**

Isaac constructed a rental property in Sydney that he had been renting out since 2011. In March 2020 a major fire damaged the house and the entire structure was destroyed. As the fire was an

exceptional circumstance that affected the structure, Isaac can continue claiming deductions for holding the land, including his interest costs even though there is no substantial and permanent structure on the land.

Isaac can continue to claim deductions until the property becomes available for rent, or for 3 years from the time the building was destroyed.

If the property is still unavailable for rent after 3 years he can apply for a private binding ruling requesting an extension. Isaac must provide the reasons why his premises are not rented or available for rent, and the steps he has taken to rectify the problem.

If the extension is granted, Isaac will be able to continue to claim deductions for his holding costs.

Isaac should keep records about why his property is unavailable for rent to substantiate his claim.

## **Record keeping for exceptional circumstances**

If you are applying the exceptional circumstances exemption you must keep written records of the exceptional circumstance and its effect on the structure for 5 years after the end of the income year in which the cost was incurred.

## **Capital gains tax (CGT)**

Under the existing CGT law holding costs that are not deductible may be included in the **cost base** of the asset to reduce the amount of the capital gain that arises when a CGT event occurs.

The types of expenses that may be included in the cost base are those that are ordinarily included in the asset's cost base, such as:

- interest expenses
- rates
- stamp duty or other similar duty.

QC 60628

## Vacant land before 1 July 2019

Work out if you can claim deductions for vacant land before 1 July 2019, also if CGT and GST apply.

Last updated 17 June 2024

### On this page

Land as a capital asset

Intention to build rental property before 1 July 2019

Land as trading stock

GST treatment of land in property transactions

## Land as a capital asset

If you've acquired vacant land (either for private purposes or as an investment), it's usually a capital asset subject to capital gains tax (CGT) when you sell the land.

Vacant land held as a capital asset is subject to the same CGT rules as other properties.

You should keep the following records:

- date and cost of obtaining the land
- your holding costs such as
  - council rates
  - loan interest.

You can't claim these expenses as an income tax deduction because the land does not generate income. You can add the cost of obtaining the land to the cost base of the land when calculating your capital gain or capital loss when you sell it. The holding costs may be added

to the cost base of the land when calculating your capital gain when you sell it.

## **Intention to build rental property before 1 July 2019**

If you bought vacant land before 1 July 2019 with the intention of building a rental property on it, you may be able to claim tax deductions for holding costs (of the vacant land) incurred before 1 July 2019. Some of these holding costs are:

- loan interest
- council rates
- land tax.

To be entitled to these deductions before 1 July 2019, you must demonstrate that you took [active and genuine steps](#) to build the dwelling and make it available for rent as soon as it was going to be completed. We expect that you made continuing efforts within normal timeframes relevant to the industry.

We accept there are times where delays may have occurred. Where these [delays were beyond your control](#), you may still be entitled to claim tax deductions for holding costs that incurred before 1 July 2019. However, if your intention to build a rental property changed or you have [unacceptable delays](#), you should have immediately stopped claiming deductions for holding costs of your vacant land.

Ensure you keep records of your expenses, as you may add the holding costs which are not deductible to the cost base of your land for CGT purposes. This means you can potentially reduce any capital gain made when you dispose of the land in the future. The holding costs for land acquired before 21 August 1991 should not be added to the cost base.

The holding costs cannot create, or increase, a capital loss on sale of your land.

### **Taking active and genuine steps**

Examples of taking active and genuine steps may include:

- seeking finance for the development from a financial institution or disposing of other investments to fund the development

- engaging with builders to understand the construction process and obtain building cost estimates
- engaging with architects to design a suitable house plan
- researching council development plans or possible covenants over the property
- meeting with local real estate agents to determine expected rental returns.

This is relevant only for the period before 1 July 2019.

## **Delays beyond your control**

Examples of delays beyond your control may include:

- disputes in the approval process with local council or neighbours
- your builder going into liquidation
- the property has been affected by a natural disaster.

This is relevant only for the period before 1 July 2019.

### **Example: delays beyond your control**

In July 2017, Tony purchases a block of land with the intention to build a residential rental property. He immediately begins engaging with various builders and visiting display homes to obtain a suitable house plan and estimates of building costs. During this time, Tony also meets with his mortgage broker to acquire a loan to finance construction of the dwelling.

Upon finalising the house plans, Tony submits them to the local council for approval. However, after a few months, the council rejects Tony's plans as they don't meet certain regulations. This dispute takes a number of months to resolve before Tony is able to re-submit plans. Construction of the dwelling commences following council approval, and the house is rented out once it is completed before 1 July 2019.

As Tony has demonstrated that he made continuing efforts within normal industry timeframes to derive rental income, he can deduct his holding costs of the vacant land such as interest

on loan for purchasing land and council rates. The delays in the development were beyond his control.

However, if the land had remained vacant on 1 July 2019, Tony cannot claim deductions for the holding costs incurred from 1 July 2019.

## Unacceptable delays

Examples of unacceptable delays may include:

- inability to build your desired house due to lack of funds.
- holding onto the land, due to a downturn in the real estate market, or to generate capital growth – even if you may consider developing the land in the future.

If a venture becomes dormant and the holding of the land is passive, you will not be able to claim deductions even if there is an intention to revive that venture at some point in the future. These expenses may be included in your cost base.

This is relevant only for the period before 1 July 2019.

### Example: unacceptable delays

In January 2016, Emily seeks finance from her bank to purchase a block of vacant land. She doesn't discuss any proposed plans to build a dwelling with her broker and it is not factored into the loan application. Emily undertakes some initial enquiries with various builders and visits some display homes during this time. However, she doesn't sign any contracts to construct a dwelling. Over the subsequent years, Emily's employment changes which means that she is unable to commit further to the development.

Emily is seeing that land values are rising in the area and developers are buying blocks close by for development. Although it is now no longer financially viable for Emily to build the rental property, she decides that she can still afford to keep making the interest payments on the loan for her vacant land until she gets an offer to sell her land to a property developer. Emily never took active and genuine steps to construct the rental property, thus, she cannot claim interest deductions for her vacant land's loan repayments.

As Emily can't demonstrate that she undertook active steps to develop the property, she will not be allowed to claim any deductions for the holding costs of the vacant land at any time.

If Emily then undertakes active and genuine steps to build a rental property, she may be able to claim deductions for the holding costs of the land but only from the time she progresses on her intention and only if this happened before 1 July 2019. Emily can't claim deductions for holding costs of the vacant land from 1 July 2019.

Where Emily claimed a deduction for holding costs, she will not be able to include those expenses in her cost base.

For more information, see *Taxation Ruling TR 2004/4 Income tax: deductions for interest incurred prior to the commencement of, or following the cessation of, relevant income earning activities.*

## Land as trading stock

If you sell land that was trading stock, the sales proceeds are assessable income. Land may be treated as trading stock for income tax purposes if you:

- carry on a business activity that involves dealing in land
- hold the land for the purpose of resale.

Business activities that involve dealing in land include acquiring land:

- to develop, or subdivide, and sell
- for the purpose of building a dwelling or commercial property and selling the developed property.

Even a one-off transaction undertaken in a business-like or commercial manner can result in land being treated as trading stock. For example, you purchase a block of land to develop, or subdivide, and then sell. In this case, the land would be treated as a revenue asset rather than a capital asset.

We consider that the business activity begins when you start a definite and continuous cycle of operations designed to lead to the sale of the land.

For vacant land that is trading stock, the proceeds from the land are treated as ordinary income (not a capital gain) and associated costs are deductible.

## **Land converting from capital asset to trading stock**

If you own land as a capital asset, but start to hold it as trading stock, there may be CGT implications. Under the trading stock rules, you can choose to start holding the trading stock at either its original cost or its market value. If you choose market value, CGT event K4 will happen. This means that you may make a capital gain or loss.

For more information on trading stock for your business, see [Accounting for business trading stock](#).

For more information on carrying on a business of primary production, see [Taxation Ruling TR 97/11 \*Income tax: am I carrying on a business of primary production?\*](#)

## **GST treatment of land in property transactions**

If you're dealing with property, including one-off transactions, we may consider you to be carrying on a business or a commercial venture and you need to register for GST.

Once registered, you need to include the GST in the price of the goods you sell, including:

- vacant land
- commercial and commercial residential premises
- new residential premises.

You'll be able to claim credits for the GST included in the price of most of your business purchases, subject to normal GST rules. You'll also need to report these transactions by completing a business activity statement.

If you buy vacant land with the intent to build a residential rental property on it, you are not liable for GST on the rent you charge. You'll also not be able to claim credits for the GST included in anything you purchase.

For more information on property and GST, see:



- GST and property
- GST at settlement
- Property development, building and renovating.

QC 23639

## Subdividing land

If you subdivide a block of land, there may be tax implications such as capital gains tax (CGT) or GST.

Last updated 17 June 2024

### On this page

- Conditions on subdivided land
- Capital gains tax on subdivided land
- When your home is affected
- GST treatment of subdividing

## Conditions on subdivided land

If you subdivide a block of land, each resulting block is registered with a separate title. If you sell the new blocks, any profit is treated as a capital gain or income. Where the profit is treated as income, there are [GST implications](#).

The profit you make is treated as ordinary income (not a capital gain) if **both** of the following apply:

- your intention or purpose in subdividing was to make a profit
- the profit was made in the course of carrying on a business, a business operation or commercial transaction.

This is true even if you aren't in business (for example, if it's a one-off transaction by an individual). For more information, see [TR 92/3](#) *Income tax: whether profits on isolated transactions are income*.

Certain purchasers of **potential residential land** are required to **withhold an amount of GST** from the price of that land for payment to us.

## **Capital gains tax on subdivided land**

When you **subdivide** a block of land for CGT purposes:

- the original land parcel is divided into 2 or more separate assets
- you make a capital gain or capital loss when you sell the subdivided blocks.

To work out your capital gain or capital loss, the date you acquired the subdivided blocks is the date you acquired the original parcel of land. The cost base of the original land is divided between the subdivided blocks on a reasonable basis.

## **When your home is affected**

If you sell any land separately from your home, it is subject to CGT. Only land sold with the home that is your **main residence** can receive the main residence exemption.

Land is adjacent to your home if it is close to, near, adjoining or neighbouring it.

## **GST treatment of subdividing**

You may have GST obligations and entitlements if you **subdivide and sell land**:

- with the intention of making a profit
- in the course of carrying on a business
- as a business or commercial transaction.

If you're unsure whether your subdivision falls into the above categories, you can request a private ruling to determine your tax position.

Even with a one-off transaction, you may still be required to **register for GST** because your transaction may have the characteristics of a business deal.

Once registered for GST, you will:

- need to include GST in the price of goods you sell, including land that you've **subdivided**
- be able to claim credits for the GST included in the price of most of your business purchases (subject to the normal GST rules)
- be able to report these transactions by completing an activity statement.

For more information see:

- **Tax consequences on sales of small-scale land subdivisions**
- **Examples of tax consequences on sales of land including small-scale land subdivision**
- **Eligibility for main residence exemption.**

**QC 23640**

## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

## **Copyright notice**

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).