COTA
For older Australians

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Senator Nick McKim
Chair
Select Committee on the Operation of the Capital Gains Tax Discount
PO Box 6022
Parliament House
CANBERRA ACT 2600
via email CGTD.Sen@aph.gov.au

Dear Senators

Operation of the Capital Gains Tax Discount

We thank you for the opportunity to comment on the Select committee's inquiry into the operation of the capital gains tax discount. We apologise for the lateness and brevity of our remarks but hope they are of assistance to the committee's deliberations.

Capital Gains Tax (CGT) and associated rules, caveats and discounts have an impact on both the wealth and financial decisions of many Australians. COTA notes its particular interest in the impact on CGT policy as it influences both retirement income and housing outcomes. Consideration of reforms must achieve a balanced approach across both systems. CGT discount should not be viewed in isolation but part of a clear national plan with goals for housing and retirement income.

COTA supports a continued CGT discount (at some level). Changes to the current level should have a clear rationale with clear societal benefits. Modelling should consider the impact on a range of target groups including older renters, and investors with lower financial means. Policy changes should seek to ensure that lower wealth individuals are not adversely affected from achieving a dignified retirement. [1]

Throughout the introduction of CGT in 1985, the changes to a percentage discount model in 1999 and the removal of the CGT discount for foreign and temporary residents in 2012, a sustained grandfathering of assets purchased during one set of rules was adopted by both sides of Government and continues today. This principle of grandfathering current arrangements must be continued to ensure investor confidence, in particular for older Australians who have structured their retirement in certain ways based on the rules at the time.

[1] A dignified retirement is one where a person has sufficient income, alongside government supports, to maintain their pre-retirement lifestyle, participate economically and socially in their community, and sustain reserve funds for unforeseen costs and long-term financial security.

COTA notes several proposals to adjust the CGT discount that have been made in recent times, including:

- 2010 Henry Tax Review which recommended:
    - reducing the discount to 40% for individuals and trusts; and
    - a detailed realignment of taxation of superannuation which included all the tax rate on all superannuation fund earnings (including both interest and capital gains) should be halved from 15% to 7.5% (which effectively abolished the need for the current 33.3% CGT concession that reduces the 15% taxation on earnings to 10% effective tax rate).
- think tanks and policy/advocacy organisations including the Grattan Institute, Per Capita and the Australian Council of Social Services, who have:
    - noted the unfairness of different tax treatment between wages/income earnt, tax on passive income in the form of interest in bank accounts (without discount), and tax on capital gains (which may enjoy a discount),
    - proposed a reduction of the current 50% discount to 25% for individual and trusts. ACOSS has proposed an implementation method of 5% reduction each year over 5 years. If adopted in isolation, Grattan modelling estimates house prices may fall less than 1% if the discount were halved.
    - included a range of proposals between them on amendments to superannuation CGT discount. This includes alignment to bank interest treatment, abolishing the current pension phase 0% tax on earnings, and reduction of the 33.33% to 16.66% CGT discount. This proposal would increase the effective tax paid today on CGT related earnings from 10% to 12.5%.
- Concerns raised by housing bodies (including Housing Industry Association and Real Estate Institute of Australia) that current CGT settings contribute to decisions by investors to build new house and provide the necessary number of new homes and rental properties.

Council on the Ageing (COTA) Australia represents the interests of people aged over 50. As we are not tax experts our comments are principle-based and designed to ensure that people who have planned for their retirement under the current set of rules are not unduly disadvantaged and that housing is positively impacted by any change.

We would ask the Committee to consider and address the following in its recommendations:

- A simpler tax system should be appropriately targeted and enable lower income people to build a reasonable retirement income independent from government supports.

- For many Australians, home ownership and superannuation are critical elements in securing a reasonable quality of life in retirement. They enable independence, self-determination and limit reliance on the Age Pension. Individual and household investment decisions are based on the financial rules and taxation settings in place at the time an individual is planning for their retirement.

- While there is no doubt that some older Australians are part of very wealthy households, it is also true that 1 in 4 people over 65 are living in poverty. The media portrayal that all older Australians are wealthy is a falsehood and public policy proposals should be nuanced to target only the people intended.

    - A general change across the entire superannuation system, for example, will disadvantage the majority of Australians with modest and low balances, while more wealthy Australians will have the opportunity to simply shift investment assets to a more tax advantageous environment.

    - Accordingly, COTA welcomed the Governments recent Division 296 changes to introduce a 15% tax for balances $3-10 million, and a 25% tax for balances above $10million which appropriately targets those with greater wealth, including those in the retirement phase.

    - Introduction of CGT changes for people with multiple properties or assets above a certain level would ensure a consistent approach across all asset types (and reduce the capacity for someone to simply shift funds to a more tax advantageous investment), while maintaining the reforms on those with the capacity to adjust their retirement plans more easily.

- Modelling of taxation proposals should assess the impact of change on older Australians in a range of lower wealth situations and should not limit the capacity for people to build their retirement income, including through property investment. Gender analysis of any change is required.

- Older Australians do not have one view on Australia's tax and transfer system.

    - 39% of Australians 55+ believe the current tax system needs fundamental reform, 39% believe it needs minor reform and 22% believe it doesn't need any changes[2].

    - A belief that large companies, very wealthy individuals and high income earners are not paying enough tax is highest among the 55+ demographic, whereas this same

[2] Essential Research. (2025, May 12). *Views on current tax system*. The Essential Report. https://essentialreport.com.au/questions/views-on-current-tax-system

group are the least likely age group to believe that small businesses, or lower or middle income earners were not paying enough tax.[3]

- Less than half (43% of respondents 55+) support tax reform proposals to "reduce the capital gains tax discount for assets held longer than a year from 50% to 25%"[4]

- COTA recognises that CGT in property can impact on different groups of older people in different ways:

  - Older Australians seeking to downsize or move to a more appropriate house for their ageing needs, should not be disincentivised to do so by the impact of CGT on their principal place of residence. Accordingly, the role of the Main Residence Exemption must be maintained into the future.

  - Some people (both before retirement, and while in retirement) have invested in property, with financial decisions based on the rules at the time they purchased the property, including CGT discounts. For many older retirees today, investment in property throughout their lives was a form of 'DIY superannuation strategy' before the superannuation system was fully mature.

  - There is some evidence that the CGT discount contributes indirectly to a more speculative and unstable rental housing reducing the availability of affordable rental supply. The CGT discount after holding for only 12 months, contributes to a property investors strategy of quickly reselling the property for profit, banking on short-term price increases rather than long-term value. These investment strategies to hold property assets for the short term and realise high gains significantly contribute to a reduction in the number of affordable homes for rent in an area, as well as increasing the rents for those homes once sold. Older renters are often longer-term renters, with women aged 55 and over one of the fastest growing groups of people who are at risk of homelessness. These strategies can lead to evictions (so the property can be sold with vacant possession) or a sharp increase in rent (often pricing out lower fixed income retirees). More institutional investment in rental housing, increased Commonwealth Rent Assistance (CRA) payments, creation of shared equity models for home ownership, and increasing the amount and availability of community and public housing can help reduce these impacts.

  - CGT incentivises some investors to hold onto their properties, rather than sell them leading too less housing stock being available, which in turn contributes to higher prices. One impact of housing prices growing faster than wages, is that younger generations take far longer to save a 20% deposit and increasingly are relying on the

[3] Essential Research. (2025, February 18). *Appropriate amount of tax for different groups*. The Essential Report. https://essentialreport.com.au/questions/appropriate-amount-of-tax-for-different-groups
[4] Essential Research. (2024, February 13). *Support for tax measures*. The Essential Report. https://essentialreport.com.au/questions/support-for-tax-measures-2

'Bank of Mum and Dad' (BOMAD) to purchase their home. The BOMAD total lending estimates vary between $35 and $92 billion, which would rank BOMAD as somewhere between the fifth and ninth biggest home mortgage lender if it were a single entity.[5] While many older Australians choose to make sacrifices for their children, this form of early inheritance can have a negative impact on the quality of retirement for some older Australians.

- Many older Australians are concerned about a tax system that rewards existing wealth more than future work and the impact it has for growing dual inequality face by a younger generation between 'The Asset-Rich Heirs' (who can access the BOMAD, enter the market and continue the cycle of wealth) vs 'The "Inheritance-Poor' (whose parents aren't homeowners or don't have spare wealth to gift). Many older people don't want to see their children and grandchildren "locked out" of the Australian dream, simply because of their inherited level of wealth, and irrespective of how hard they work or how much they earn.

- COTA supports a simpler tax system and recognises that vehicles like family trusts must be treated in comparable ways to personal income tax to ensure that tax avoidance strategies are minimised. This is distinct from the purpose of superannuation for most Australians which is designed to provide an income in retirement, rather than serving as a vehicle for wealth accumulation or estate planning. If Government wishes to introduce progressive tax arrangements for high net wealth individuals (including those within superannuation) this should be targeted at those individuals and not designed in a way that reduces the retirement incomes of lower income retired persons.

- Older Australians must have confidence in their retirement plans without rules changing after their purchases have been made with a current set of rules. Australians structure their finances around the rules as they exist at the time of their investment decision/purchase. Any changes announced by a government must only apply to assets purchased from that date to ensure confidence remains in retirement planning. For working age Australians (and retired wealthier Australians), it is more possible that an unexpected minor adjustment to rules can be compensated for by changes to their investment strategies. However, for a retired person, now living on a fixed income based on their investment decisions, and usually no longer having the opportunity to generate additional income, changes can have a significant impact on their quality of life.

- Funds in the retirement phase of superannuation currently pay 0% tax on earnings and capital gains (unlike the 15% tax on earnings in the accumulation phase). Introducing a tax on these earnings (excluding existing proposals affecting the very wealthy like Division 296) would fundamentally alter the financial trajectory of the retirement income of mainstream

[5] Productivity Commission. (2021). *Wealth transfers and their economic effects* (Research Paper). https://www.pc.gov.au/research/completed/wealth-transfers/wealth-transfers.pdf; Mozo. (2025). *The gift of mum and dad: From loans to legacies. Bank of mum and dad report 2025*. https://mozo.com.au/reports/bank-of-mum-and-dad-report-2025

retirees. Further, by reducing superannuation balances faster, such a tax would shorten the period retirees remain self-funded and bring forward their reliance on the Age Pension. This shift effectively transfers the fiscal burden from "tax concessions" to direct government outlays in the form of the pension. We would encourage the committee to consider:

- In a scenario involving a $500,000 balance (representing a middle-upper wealth retiree), the imposition of such a tax would reduce annual investment income by thousands of dollars, forcing retirees to sell down their underlying assets at a much faster rate to maintain their basic standard of living to fund their tax bill.

- A "snowball effect" of diminishing returns (in moments of economic downturn) and increasing capital withdrawals creates a counterproductive fiscal outcome for Government where the immediate superannuation revenue gain for the Treasury is eclipsed by long-term social security costs.

- While the government collects around $4,500/year in tax on earnings (assuming 15% tax on a 6% earning on $500,000 balance equating to $30,000), they eventually have to pay out tens of thousands more in increased Age Pension payments because the retiree's private savings were depleted earlier and a part pension is paid earlier, while a full pension may also be paid years earlier.

- For many older people retaining the full benefit of their earnings (including capital gains) in superannuation retirement phase can be critical, in particular during periods of economic downturn. When the economy enters a downturn (recession or market crash), retirement balances typically fall. The 0% tax rate on earnings in retirement phase provides a number of benefits:

  - Preserving Capital: In a downturn, "earnings" are often negative (capital losses). Because there is no tax, every dollar of a dividend or interest payment stays in the fund to help offset those capital losses. If a 15% tax were in place in retirement (as it is in the accumulation phase), the fund would be losing money to both the market and the ATO simultaneously, accelerating the "drawdown" of the retiree's principal.

  - Income Stability: Today, most retirees rely on an Account-Based Pension, which requires a minimum annual withdrawal (e.g., 5% for those aged 65–74). During a downturn, the tax-free status allows the fund to meet these mandatory payments using the full amount any income earnt, without having to sell off assets at "bottom of the market" prices simply to pay a tax bill.

  - The "Springboard" Effect During Economic Repair: The 0% tax rate in the retirement phase functions as a vital financial accelerator during post-downturn recoveries, allowing the vast majority of retirees to harness the full power of "untaxed compounding" by reinvesting 100% of market gains to restore their balances far more rapidly than if a 15% tax were siphoning off growth; furthermore, this tax-free

status offers essential protection against the inflation typically associated with economic repair periods, ensuring the "real" purchasing power of retirement savings is maintained without the need to generate excessive extra returns just to cover a tax liability.

- If CGT discount is reduced, a significant portion of the budget savings should be directed at housing system challenges particularly the lack of affordable private rental housing and increasing the supply of community and public housing.
- Reform must be accompanied by community consultation and engagement and be inclusive of the views and perspectives of older people.

We thank the committee for the opportunity to provide reflections on the important work of the committee and for their consideration of our submission.

For any further matters please contact myself or Corey Irlam, Deputy CEO on 0401 738 996 or cirlam@cota.org.au.

Yours sincerely

Sincerely,

Patricia Sparrow
Chief Executive Officer
COTA Australia