



### This Guidance Note provides guidance on the new measure for contributing the proceeds of downsizing to superannuation

*We are committed to providing you with accurate, consistent and clear advice and guidance to help you understand your rights and entitlements, and your obligations. If you follow our advice or guidance and it turns out to be incorrect, or you make a mistake because it was misleading, we will take this into account.*

#### [Our commitment to you](#)

*This Guidance Note contains general information and examples. It may omit details that could be significant in your personal circumstances.*

#### **This information is for people who are 65 years and over who are considering selling their home and making a contribution into superannuation based on the proceeds from the sale.**

The *contributing the proceeds of downsizing to superannuation* measure was one of several announced in the 2017-18 Budget as part of the Government's package of reforms to reduce pressure on housing affordability.

Older Australians choosing to sell their home, for example, to downsize or move from homes that no longer meet their needs, are provided with the benefit of being able to contribute the proceeds from the sale of their home into superannuation.

#### **What is a downsizer contribution?**

The downsizer contribution allows people, who may otherwise be prevented from making contributions into superannuation due to their age, work status or contribution cap restrictions, to sell their home and make a contribution to superannuation based on the proceeds of the sale.

Generally, a personal contribution you make for yourself is treated as a non-concessional contribution unless a deduction has been claimed for it, or it is excluded from being treated as a non-concessional contribution.

Downsizer contributions are excluded from the definition of a non-concessional contribution. You cannot claim a deduction for a downsizer contribution.

A downsizer contribution is not counted towards the concessional or non-concessional contribution caps.

You can make a downsizer contribution even if you have a total super balance above the general transfer balance cap (currently \$1.6 million). However, once you have made a downsizer contribution it does count towards your total superannuation balance.

Existing eligibility requirements for Government co-contributions as well as the tax offset for spouse contributions are not affected by this measure and may apply to downsizer contributions.

#### **What are the conditions for a downsizer contribution?**

For a contribution to be a downsizer contribution, all of the following conditions must be satisfied:

- you or your spouse dispose of an 'ownership interest' in a qualifying home in Australia
- you exchange contracts for the sale of the home on or after 1 July 2018
- you are aged 65 years or older at the time the contribution is made
- the contribution is equal to all or part of the total capital proceeds from the disposal
- the contribution must have been made within 90 days of disposing of the home or such longer time as allowed by us
- you or your spouse, or former spouse, must have owned the home, or the land on which the home was situated for 10 years prior to disposal
- you meet the main residence requirement, and
- you make a choice to treat the contribution as a downsizer contribution, and notify the complying superannuation plan provider in the approved form, at or before the time you make the contribution.

A qualifying home means a residential building, and does **not** include a caravan, houseboat or other mobile home.

You cannot make downsizer contributions if you have previously made a downsizer contribution, or had one made on your behalf, in relation to an earlier disposal.

You are not required to purchase another home following the sale of your home to be eligible to make a downsizer contribution.

### Ownership interests

Having an 'ownership interest' in a home includes owning it in part as joint tenant or tenant in common. This means you can be eligible to make a downsizer contribution if you sell a part ownership in a home, even if other part owners do not.

There is an exception to the requirement to have disposed of an ownership interest where one spouse holds an ownership interest in the home but the other spouse does not.

If you are not on the title to the home but your spouse is, you can make a downsizer contribution provided you personally meet the other requirements. This can also extend to a situation where the deceased estate of your spouse disposes of the ownership interest.

If you are unsure about whether your circumstances meet the requirements for making a downsizer contribution you should seek professional advice.

### How much can I contribute as a downsizer contribution?

Downsizer contributions are limited to the lesser of \$300,000 or the total capital proceeds that you, your spouse, or you both, receive from sale of your ownership interests in the home.

This is the gross capital proceeds – any debt outstanding on a mortgage that is discharged or costs incurred from the sale of the home do not reduce the maximum available contribution amount.

If a couple sell their home under a single contract and are both eligible to make a downsizer contribution, they are free to choose how to apportion the total capital proceeds between them, provided that neither of them makes a contribution greater than \$300,000.

If only one member of a couple is eligible, they can use the total capital proceeds from the sale up to \$300,000.

You can make multiple downsizer contributions from the proceeds of a single sale of a home, subject to the maximum contribution amounts above.

### What is the main residence requirement?

To make a downsizer contribution the home must have been your main residence, at some point during the period of ownership, for the purposes of the main residence exemption for capital gains tax (CGT).

The capital gain or loss from the sale of the home is disregarded, in whole or part, because the property has been treated as your main residence.

A partial main residence CGT exemption may apply in a variety of situations, including where the home:

- was not your main residence for the entire period of ownership,
- was used to produce assessable income (in whole or part) for a period of time during ownership, or
- is on land greater than two hectares.

You may not have a capital gain or loss to disregard because, for example:

- your home was a pre-CGT asset (that is, if it was acquired before 20 September 1985), or
- your spouse owned the home that was sold.

If this is the case, you will meet the main residence requirement if you would have been eligible for a full or partial main residence CGT exemption if you did have a capital gain from the sale.

### The 10-year ownership test

You or your spouse or former spouse must have held an ownership interest in the home, or ownership interest in the land on which the home is situated at all times during the 10 years prior to the disposal.

This is from the day the ownership interest in the home commenced to the day it ceased. In most cases, this would be from the settlement date of the original purchase to the settlement date of the sale.

You are not required to hold an ownership interest for the entire 10-year period personally, provided that, at all times during this period, an ownership interest has been held by some combination of you, your spouse, and/or your former spouse. This allows for changes in ownership between spouses to account for circumstances such as the death of a spouse and relationship breakdown.

If your spouse who held an ownership interest dies, you can count the period of ownership of your deceased spouse, including the period the dwelling is held by the trustee of the deceased estate, towards the 10-year ownership test.

If there is a period of time when land is vacant, and you hold the ownership interest in the land, this will still count towards the 10-year ownership test. This means that eligibility can be extended to circumstances such as where the dwelling has been knocked down and rebuilt or a vacant block was initially purchased and subsequently built on.

If you are going to rely on having held an ownership interest in the land to satisfy this condition, you or your spouse must generally have held the interest directly, not through another entity, such as a trust or company. In these situations we recommend you seek advice specific to your circumstances prior to making a contribution.

### Substitute homes

The 10-year ownership test can be met if the home you disposed of is a substitute for a previous home, provided you have owned one or the other across the entire 10-year period.

This may occur where your previous main residence, or a home that was treated as such, had been compulsorily acquired, lost or destroyed and you acquired a substitute interest.

### Extensions of time

You may request a longer period of time for making a downsizer contribution in some circumstances.

An extension of time will not be granted to allow you to meet the age requirement.

To apply for an extension of time the request must be received before the 90 day period has expired.

If you want to request an extension you can contact us on **13 10 20**.

If you are not satisfied with the outcome of your request, you may seek a review of our decision.

### What happens if your downsizer contribution is not eligible?

If we determine your downsizer contribution does not meet all of the eligibility requirements we will notify you and seek further information if needed. We will notify the super fund that received your contribution if we still consider that the contribution is not an eligible downsizer contribution.

The super fund will then re-categorise the contribution as a member contribution and assess whether the contribution is to be returned by the fund, based on the contribution acceptance rules or if it should remain in the fund.

If the super fund is unable to retain the amount as another contribution type, the amount will be returned to you if the fund still holds the amount.

When amounts are re-reported as a personal contribution, it is likely that this will result in an excess non-concessional contribution determination. Penalties for making a false and misleading statement may also be applied if you had incorrectly declared that you were eligible to make such a contribution.

## Examples – main residence requirement

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Sarah:

- 66 years old
- owns and has been living in her home for 11 years
- married to Peter

Peter:

- 65 years old
- lives with Sarah in her home, and treats Sarah's home as main residence
- also owns another dwelling that he has owned for 13 years and in which he was previously living

*Sarah and Peter each meet the main residence requirement for Sarah's home, since they have treated Sarah's home as their main residence and have only resided there since they have been together.*

*Peter also meets the main residence requirement for his other dwelling as he previously lived there prior to his relationship with Sarah, and is eligible to partially disregard the capital gain or loss from the disposal of his other dwelling under the CGT main residence exemption.*

*In early 2020, Sarah sells her home. The capital proceeds from the sale are \$400,000. Later in 2020, Peter sells his other dwelling. The capital proceeds from the sale are \$700,000.*

*Sarah and Peter may both choose to use the proceeds from Sarah's home to make their downsizer contributions, however they are only able to contribute any combination totalling the capital proceeds of \$400,000, for example, \$300,000 for Sarah and \$100,000 for Peter. Also, if Peter chooses to use proceeds from Sarah's home to make a downsizer contribution, he will not be able to make another downsizer contribution with proceeds from the sale of his other dwelling.*

*If Peter does not make a downsizer contribution with proceeds from the sale of Sarah's home, and instead chooses to use the proceeds from his other dwelling to make downsizer contributions, he can contribute a maximum of \$300,000. Sarah is not eligible to make downsizer contributions from the sale of Peter's other dwelling as she does not meet the main residence requirement but can make a downsizer contribution of \$300,000 in relation to the sale of her home.*

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Ian:

- 70 years old
- purchased his first home in 2005, which he lived in until 2013
- purchases a second home in 2013 and moved in to the new home
- chose to rent out his first home

*Even though Ian is no longer treating his first home as his main residence, he is effectively exempted from some of the capital gain from the sale of the first home because the property had been treated as his main residence prior to renting it out.*

*He therefore meets the main residence requirement for making a downsizer contribution.*

*In 2019, Ian sells the first home for \$500,000.*

*Ian meets all the eligibility requirements and can make a downsizer contribution of up to \$300,000.*

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Tom:

- 67 years of age
- purchased a house in 1980 as a rental property
- has never lived in the property

*On 1 July 2020, Tom decides to sell his rental property and is looking at whether he is eligible to make a downsizer contribution.*

*The property is a pre-CGT asset as it was purchased prior to 20 September 1985 and it will not be subject to CGT when it is sold.*

*However, as Tom never lived in the house, Tom would not have been able to disregard any of the capital gain or loss from the sale if the house had been a CGT asset.*

*Tom does not meet the main residence requirement, and he is not eligible to make a downsizer contribution from the sale of this property.*

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Murray:

- 70 years old
- has owned a farm for 20 years which contains his main residence
- married to Mavis

*Murray sells the farm containing the main residence for \$3 million.*

*Under the CGT rules, Murray is entitled to partially disregard the capital gain on the main residence and the adjacent land – up to 2 hectares – which is not used to produce income. If Mavis' name had been on the title to the farm, she would have also been able to partially disregard a capital gain in the same manner.*

*Murray and Mavis both meet the main residence requirement.*

*When working out the maximum amount Murray and Mavis can contribute, there is no need to apportion the proceeds of sale from the property based on which part of the property was eligible for the main residence exemption.*

Mavis:

- 72 years old
- has no ownership interest in the farm

*They are entitled to make downsizer contributions of up to \$300,000 each into their superannuation as the sum of these contributions is less than the proceeds of sale from the property.*

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## Examples – 10-year ownership rule

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<p>Allison:</p> <ul style="list-style-type: none"><li>• 75 years old</li><li>• signed a contract to purchase an apartment off the plan in 2007</li><li>• the apartment was built and settlement occurred on 2 November 2009</li><li>• Allison moved into the apartment on 10 January 2010 and began treating it as her main residence</li></ul>	<p><i>Allison began holding an ownership interest in the apartment on 2 November 2009 when the settlement occurred.</i></p> <p><i>She sells her apartment in 2019. Settlement for the sale occurs on 10 December 2019 and the capital proceeds are \$250,000. Her ownership period ends on settlement on 10 December 2019.</i></p> <p><i>Allison had an ownership interest in the apartment for 10 years or more.</i></p> <p><i>As she has not previously made a downsizer contribution in relation to another contract, she meets all the requirements to make a downsizer contribution. She can contribute up to \$250,000 as a downsizer contribution which is the total proceeds received from the sale of her apartment.</i></p> <p><i>Note that, in specific circumstances, Allison may have held an ownership interest prior to 2 November 2009. For instance, this may occur through an equitable interest, such as a right to occupy.</i></p>
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<p>Steve:</p> <ul style="list-style-type: none"><li>• purchased his home in 2005</li><li>• was married to Lauren</li></ul> <p>Lauren:</p> <ul style="list-style-type: none"><li>• 68 years old</li><li>• lived in the home with Steve from 2015</li></ul>	<p><i>On December 1 2016, Steve passes away and leaves the home to Lauren. The property title is transferred to her through the administration of his estate in April 2017.</i></p> <p><i>Lauren sells the property for \$400,000, with settlement occurring on 1 January 2020.</i></p> <p><i>Lauren meets the 10-year ownership condition because:</i></p> <ul style="list-style-type: none"><li>• <i>from 2005 until 1 December 2016 the ownership interest in the home is treated as being held by Steve, and</i></li><li>• <i>since 1 December 2016 the ownership interest is treated as being held by Lauren.</i></li></ul> <p><i>Lauren is eligible to make a downsizer contribution of up to \$300,000.</i></p>
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<p>Anh:</p> <ul style="list-style-type: none"><li>• 65 years old</li><li>• purchased a derelict house with settlement occurring in January 2015</li><li>• demolished the home in February 2016</li><li>• built a new house on the block which was completed in 2018</li></ul>	<p><i>Anh lived in the new house and treated it as her main residence from the date it was completed until its sale in September 2025.</i></p> <p><i>Anh has held an ownership interest for the 10-year ownership condition since 2015 even though there were periods when there was no house on the block. This is because she maintained an ownership interest in the dwelling or ownership interest in the land over this time.</i></p> <p><i>Anh has held an ownership interest for the entire 10-year period prior to the sale, and is eligible to make a downsizer contribution based on the proceeds of the sale.</i></p>
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<p>Tracey:</p> <ul style="list-style-type: none"><li>• purchased her home in 1995</li><li>• married Matthew in 2000</li></ul> <p>Matthew:</p> <ul style="list-style-type: none"><li>• 68 years of age</li><li>• lives with Tracey in her home</li></ul>	<p><i>In 2018, Tracey and Matthew's relationship breaks down and the couple divorce. As a result of this separation, the title for Tracey's home is transferred to Matthew. He continues to reside at the house and treats it as his main residence.</i></p> <p><i>Matthew decides to sell the home in 2019, the capital proceeds of which are \$700,000. Matt satisfies the 10-year ownership test as he or his former spouse, Tracey, have held an ownership interest at all times during the last 10 years.</i></p> <p><i>Matthew is eligible to make a downsizer contribution of up to \$300,000.</i></p> <p><i>Tracey does not have an ownership interest in the home at the time of the sale and, as neither she, nor a current spouse, owned the dwelling just prior to disposal, she is unable to make a downsizer contribution.</i></p>
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## Examples – maximum amount of a downsizer contribution

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Diana:	<i>In 2020, Diana and Gary decide to sell their home. At the time of disposal, Diana is aged 67 and Gary is 62. Gary is not eligible to make downsizer contributions, as he is under 65.</i>
<ul style="list-style-type: none"><li>• 67 years old</li><li>• purchased home as joint tenants with Gary in 1990</li><li>• married to Gary</li></ul>	<i>The home is sold under a single contract. The total capital proceeds from the sale are \$500,000. As joint tenants, Diana and Gary each have capital proceeds of \$250,000 for the disposal of their ownership interests.</i>
Gary:	<i>Assuming that Diana has not made a downsizer contribution previously, she is eligible to make a downsizer contribution.</i>
<ul style="list-style-type: none"><li>• 62 years old</li></ul>	<i>In calculating her total available maximum downsizer contribution amount, Diana is able to include the capital proceeds from her own interest and from Gary's interest, for a total of \$500,000. As this amount is greater than the total maximum contribution amount of \$300,000, Diana is able to make downsizer contributions of up to \$300,000.</i>
Rupert:	<i>In 2019, Rupert and Denise sell their home for \$500,000. The capital proceeds for the disposal of their interests are \$250,000 each. The home is sold under a single contract.</i>
<ul style="list-style-type: none"><li>• 75 years old</li><li>• has a 50% ownership interest in his home as a tenant in common with wife Denise</li></ul>	<i>Rupert and Denise are both eligible to make downsizer contributions. They are able to access the capital proceeds from each other's ownership interests to determine the maximum contribution they can each make.</i>
Denise:	<i>Rupert and Denise can choose how to allocate the total available contribution amount, as long as neither individual contributes more than \$300,000 in total, and the sum of their respective contributions does not exceed the capital proceeds of \$500,000.</i>
<ul style="list-style-type: none"><li>• 75 years old</li><li>• 50% share in the home as tenant in common with Rupert</li></ul>	<i>They choose to make a \$300,000 contribution to Denise's superannuation and a \$200,000 contribution to Rupert's superannuation.</i>

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## Examples – when contributions are not eligible

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Trent:	<i>Trent and Pamela decide to sell their home. The capital proceeds received from the sale are \$500,000.</i>
<ul style="list-style-type: none"><li>• 64 years and 1 month old</li><li>• owns his home and has lived there for 40 years with wife, Pamela</li></ul>	<i>Despite meeting all the other conditions for eligibility, Trent will not be 65 within the 90 days after settlement and will not be able to make a downsizer contribution.</i> <i>Trent applies to the ATO for an extension of time to 12 months after the disposal to enable him to make a downsizer contribution.</i>
Pamela:	<i>We will not grant this extension on the basis that the timing of the sale was within Trent's control and the timeframe requested is far in excess of the usual 90 days.</i>
<ul style="list-style-type: none"><li>• 65 years old</li><li>• holds no ownership interest in the home but it is treated as her main residence</li></ul>	<i>Pamela is still eligible to make a downsizer contribution of up to \$300,000.</i> <i>As Trent is under 65, he may be able to contribute part of the sale proceeds to superannuation as a non-concessional contribution.</i>

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Michael:

- 74 years old and still working part-time
- owned and lived in his home for 30 years
- enters into a contract to sell his home on 1 June 2018

*Michael exchanges the contract for the sale of his home on 1 June 2018. The date of settlement is 1 July 2018 and on that day he receives capital proceeds of \$500,000.*

*Michael completes and signs the downsizer contribution form declaring that he is eligible to make a \$300,000 downsizer contribution to his super fund. Michael provides the downsizer contribution form and the contribution to his super fund. This is the only contribution made to his super fund in that financial year.*

*Michael is not eligible to make a downsizer contribution as he entered into the contract for the sale of his home before 1 July 2018. To be eligible, the contract for sale must be exchanged on or after 1 July 2018.*

*We advise Michael that his downsizer contribution is not eligible. Michael is given a chance to provide further information, and once we confirm the information is correct we also notify the super fund that received his contribution.*

*The super fund assesses whether the contribution could have been accepted as another type of contribution based on Michael's age and working status. Michael's super fund assesses that the contribution is not required to be returned under the contribution acceptance rules or otherwise, as Michael is working part-time. His super fund retains the contribution as a non-concessional contribution and re-reports the contribution as a member contribution.*

*Michael's non-concessional cap is \$100,000 and he has not made any other contributions in the financial year. Michael will receive a determination from us advising him that he has exceeded his non-concessional cap by \$200,000.*

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### More information

For more information, see:

- Law Companion Ruling [LCR 2018/9 Housing affordability measures: contributing the proceeds of downsizing to superannuation](#)
- [Downsizing contributions into superannuation](#) on ato.gov.au

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### References:

- ITAA 1997
- ITAA 1997 Subdiv 118–B
- ITAA 1997 292–102