



Buying a New Home Before Selling the Old One - The Ins and Outs

Sometimes an individual or couple decide to buy a new home before selling their existing one. In such cases, a concession exists that allows for both houses to be treated as a main residence for up to six months – but only if certain conditions are met, so it's good to understand what circumstances might apply to your particular situation if you are looking to buy or sell.

Section 118-140 of the *Income Tax Assessment Act 1997* (ITAA 1997) provides that both the old and new dwellings can be treated as the taxpayer's main residence for the lesser of:

- 6 months ending when your ownership interest in your main residence ends, or
- The period between the purchase of the new home and the sale of the existing home.

So if it takes a taxpayer *less* than six months to settle on the sale of their original home after having settled on the sale of their new home, then both homes can be treated as the taxpayer's main residence during this period.

On the other hand, if *more* than six months passes between the settlement of the new home and the (later) settlement of the original home, both dwellings will only be treated as a main residence for a maximum period of six months before the settlement on the original home.

In the latter instance, a partial CGT exemption will apply during the excess period (i.e. after the maximum six months) to either the original or new home. Which of them it is will depend on which did not qualify as the taxpayer's main residence.

Other than the fundamental requirement that the new home must become the taxpayer's main residence, the other two key requirements that must be met for the concession to apply are:

- The existing home must have been the taxpayer's main residence for at least 3 of the 12 months before the taxpayer's "ownership interest" in it ends, and
- The existing home must not have been used to produce assessable income in any part of that 12-month period when it was not the taxpayer's main residence.

That said, an absence concession exists that can be used to allow the original home to qualify as a main residence — including where it may have been rented in that 12-month period. This is because the effect of the absence concession is to continue to "treat" the original home as the taxpayer's main residence — notwithstanding any absence and any income use in this period.

Note that purchased vacant land or land with a partly constructed building on it can also be treated as the taxpayer's new home for the purposes of the concession.

Everyone's circumstances are different, so please if you have any questions around how this might apply to your particular situation please give our team a call on 4927 4588 (Rocky) or 4939 1766 (Yeppoon)

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