Taxable Australian Property & Non-taxable Australian Property

Understanding the difference between TAP and Non-TAP and how it impacts Australian Expats.

As an Australian Expat, you may decide to dispose of Australian assets while living overseas. This may trigger a Capital Gains Tax (CGT) event in Australia, resulting in a CGT liability owed to the ATO.

If you are a non-resident for tax purposes, the assets on which you pay CGT in Australia will change. Australian Expats who are nonresidents for tax purposes are only liable to CGT on assets considered Taxable Australian Property (TAP).

Taxable Australian Property (TAP) can include:

- Australian real property, such as a house, apartment, commercial building or land
- an indirect interest in Australian real property
- a mining, quarrying or prospecting right in Australia
- a CGT asset that you have used to carry on a business through a permanent establishment in Australia
- an option or right over one of the above – for example, a contract to purchase property off the plan.

Non-Taxable Australian Property (Non-TAP) can include:

- Cash and foreign currency
- Australian Direct Shares
- Exchange-traded funds (ETFs)
- Real Estate Investment Trusts (REITs)
- Listed Investment Companies (LICs)
- Managed funds

If you become a non-resident for tax purposes in Australia, you are taken to have disposed of each of your assets that are not considered Taxable Australian Property for their market value at the time you stopped being a resident as part of the deemed disposal rules (see our Fact sheet on Deemed Disposal). For example, your Australian shares become non-Taxable Australian Property from the day following your Australian residency ceasing.

You have the option of disregarding capital gains and losses for tax purposes when you become a nonresident. If you do this, your assets will be taken to be taxable Australian property. For example, if you disregard the capital gain or loss on Australian shares you own, those shares would become taxable Australian property.

Australian Expats must consider the CGT treatment of their assets in Australia, as the rules are vastly different from when they were a resident for tax purposes. Despite this, there are also opportunities for Expats to invest in NonTAP assets without a CGT liability in Australia.

Seeking advice from a tax professional or financial advisor familiar with Australian tax laws and regulations for foreign residents is advisable to navigate these complexities effectively.

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Do you have further questions? Please send us an enquiry to speak with a Financial Adviser.

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