CPA Australia Ltd
ABN 64 008 392 452

Level 20, 28 Freshwater Place
Southbank VIC 3006 Australia

GPO Box 2820 Melbourne
VIC 3001 Australia

P 1300 737 373
Outside Aust +613 9606 9677

cpaaustralia.com.au

Committee Secretariat
Senate Standing Committees on Economics
Department of the Senate
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

9 June 2026

Dear Sir/Madam,

Treasury Laws Amendment (Tax Reform No. 1) Bill 2026 and Income Tax Rates Amendment (Tax Reform No. 1) Bill 2026

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 176,000 members in over 100 countries and regions. We make this submission in response to the **Treasury Laws Amendment (Tax Reform No. 1) Bill 2026 and Income Tax Rates Amendment (Tax Reform No. 1) Bill 2026** (Bills) on behalf of our members and in the broader public interest.

Our detailed submission is attached for your consideration:

If you have any queries, contact Jenny Wong, Tax Policy Lead on: jenny.wong@cpaaustralia.com.au.

Yours sincerely,

Elinor Kasapidis
Chief of Policy, Standards and External Affairs

Jenny Wong
Tax Policy Lead

Submission to the Senate Economics Legislation Committee

Treasury Laws Amendment (Tax Reform No. 1) Bill 2026

9 June 2026

CPA AUSTRALIA

SUBMISSION TO THE

Senate Economics Legislation Committee

Treasury Laws Amendment (Tax Reform No. 1) Bill 2026

Income Tax Rates Amendment (Tax Reform No. 1) Bill 2026

Executive summary

CPA Australia is Australia's largest accounting body, representing more than 176,000 members across public practice, business, government and academia. We support genuine, well-designed tax reform.

The objectives of this Bill — fairer treatment of capital gains, redirecting investment incentives toward new housing supply, and tax relief for working Australians — are legitimate and important. However, CPA Australia's recommends that this Bill should not proceed in its current form, and instead be subject to further, more extensive public consultation.

The Bill represents the first tranche of a materially incomplete package of changes. It has been introduced without a consultation paper or exposure draft legislation, which has likely contributed to unresolved technical deficiencies that will impose significant and avoidable compliance costs on Australian taxpayers and their advisers.

In addition to concerns regarding elements of the policy, drafting issues and an overreliance on ministerial discretions, CPA Australia is particularly concerned with the process adopted to develop this policy and legislation. The government has chosen to legislate first and consult afterwards, within an extremely compressed timeframe. The Bill was introduced on 28 May 2026, just 16 days after Budget night, with no exposure draft, no consultation paper, and no formal stakeholder engagement on policy or legislative design.

Stakeholders have been given only 11 days to make submissions, and the Committee just 24 days to report its findings. The government is seeking to pass legislation it describes as 'the most significant tax reform in more than a quarter of a century' on the basis of two days of Senate committee hearings. This is the most compressed consultation cycle CPA Australia has encountered for legislation of this scale and complexity, and is, from a policy perspective, avoidable.

The consequence of the compressed development is visible in the Bill itself: nine undefined ministerial instruments, six explicit deferrals to future tranches, and multiple unresolved technical interaction and errors in the Explanatory Memorandum. CPA Australia urges the government to commit, for the remainder of the Budget changes, to a much longer and more considered consultation process prior to introducing further legislation.

CPA Australia has for many decades, been one of Australia’s principal contributors to accounting and tax policy development and its implementation. Our experience is that the successful development of tax changes of this scale requires “full public consultation”, as defined in the Office of Impact Assessment’s Best Practice Consultation guidance note. The government has instead undertaken “post-decision” consultation, which the guidance note states should only occur where extreme confidentiality is necessary and where prior consultation would undermine the effectiveness of the policy. We do not consider that this threshold has been met in this case.

Effective consultation enables governments to assess the real-world impacts of proposed policy, refine design, and build community understanding and support. By contrast, inadequate consultation increases the risk of poorly designed policy, unintended consequences, unnecessary compliance burdens, and reduced trust in future reform efforts.

CPA Australia's key asks and observations

1. **Defer or substantially remedy the Bill and Explanatory Memorandum before passage**

2. **The estimated compliance costs are materially underestimated and need revision**

   The complexity introduced by this Bill — a new CGT two-regime calculation, negative gearing quarantine tracking, minimum tax computation, and a one-off 30 June 2027 valuation obligation across millions of CGT assets — creates compliance costs that CPA Australia estimates at $295–$542 million per year ongoing, and at least $675 to $825 million as a one-off transitional cost. This is three to six times Treasury's own estimate of $88.4 million. CPA Australia urges the committee to recommend that the Bill not proceed until Treasury publishes a revised and disaggregated compliance cost estimate, and the Government commits to targeted amendments to reduce structural compliance burdens. See Appendix F for further analysis.

3. **A comprehensive review of the proposed legislative instruments is required**

   The ministerial instruments in this Bill delegate not administrative detail but core substantive policy questions: who is taxed, at what rate, on which assets, and under what conditions. CPA Australia considers this an unacceptable. At minimum:

   (a) Instruments 1, 2, 3, 4, 5, 6 and 7 should be subject to affirmative resolution of both Houses before taking effect;

   (b) explicit limiting criteria should be inserted in the primary legislation for the Schedule 2 exemption powers; and

   (c) asset classes intended to retain the 50 per cent CGT discount should be specified in the primary legislation, not determined by instrument. The Government should provide a complete timeline for release of all nine instruments before the Bill passes.

   See Appendix A for further details.

4. **To give taxpayers valuation certainty at 30 June 2027, the draft apportionment instrument be released with urgency**

   Every Australian holding a CGT asset on 30 June 2027, which is potentially millions of taxpayers, must establish market value at that date. We recommend the draft apportionment method instrument under section 112-185 be released for public consultation by 1 October 2026, and ATO-approved simplified valuation methodologies must be published no later than 1 March 2027. Without this, taxpayers and advisers cannot plan, and the transitional valuation cost, which Treasury has not disclosed, falls in full on Australian taxpayers.

5. **Small business and start-up carve-out**

   The Bill's removal of the 50 per cent CGT discount will fall hardest on small and start-up business owners who have built genuine value in active business assets, often over many years, with zero or low cost bases. We doubt this is the population the policy was designed to target.

   We recommend that to boost productivity, the second-tranche legislation introduce a carve-out, retaining the 50 per cent CGT discount for capital gains on active business assets where the taxpayer's aggregated turnover does not exceed $20 million. The government should also consider

whether the existing small business CGT concessions in Division 152 are adequate or require supplementation to address this gap for start-up founders. See Appendix B.

6. **Model the distributional impacts of genuine low-income earners and involuntary realisations**

   The income support exemption in section 119-15 is binary and unlimited: receipt of a qualifying payment for a single day in the income year provides full exemption from the minimum tax on a capital gain of any size. This is poorly designed. At the same time, genuine low-income earners and taxpayers who realise capital gains involuntarily, such as through deceased estate distributions, compulsory acquisition, or insolvency, should not face minimum tax outcomes that are disproportionate to their circumstances. When Australia last used CPI indexation from 1985 to 1999 it came with an income averaging mechanism that spread the tax on multi-year gains across the accumulation period, rather than bunching the entire gain into a single year's income. We recommend Treasury model and publish the distributional impact of the minimum tax provisions, before the Bill passes. See Appendix C.

7. **Commence consultation on interaction issues as a priority**

   The interaction issues identified in Appendix E demonstrate that a number of issues in particular, the deemed sale mechanism in the Bill was not adequately stress-tested before introduction. The number and variety of unintended consequences is of a scale that cannot be resolved by targeted amendments alone, and that the government should consider whether an alternative mechanism should be explored in the second tranche. Treasury should commence public consultation on interaction issues as a priority, with an issues register and published timetable, before further tranches are introduced.

8. **Statutory independent review no later than 1 July 2029**

   The Bill must include a statutory independent review of the operation of the CGT and negative gearing amendments, commencing no later than 1 July 2029 — approximately two years after the operative date, with a report to Parliament within 17 months of commencement and mandatory public consultation. See Appendix G.

In preparing this submission, CPA Australia has endeavoured to provide actionable analysis that the Committee can use directly in its report and recommendations.

CPA Australia is available to appear at public hearings and to provide additional technical analysis if required. We are also willing to engage directly with Treasury on any of the issues identified in this submission as part of the legislative refinement process.

Appendix A: Register of Legislative Instruments in the Bill

The following table lists all 9 ministerial and the Commissioner's legislative instrument powers in the Bill. None has been released as at the date of this submission.

No.	Description	Provision
1	Requirements for 'new residential dwelling' definition — the most consequential undefined term in the Bill	s.26-160(4)
2	Apportionment method for transitional gain-splitting between pre- and post-July 2027 periods	s.112-185
3	Additional CGT asset classes eligible to retain 50% discount alongside new residential dwellings	s.115-102(3)
4	Qualifying income support payments exempt from 30% minimum CGT tax	s.119-15(2)
5	Additional dwelling activities/purposes exempt from negative gearing quarantine	s.26-155(2)(c)
6	Additional business/enterprise types exempt from negative gearing quarantine	s.26-155(2)(d)
7	Additional entity classes exempt from negative gearing quarantine	s.26-155(4)(c)
8	Additional dwelling classes excluded from 'residential dwelling' definition	s.26-160(1)(e)
9	Working Australians Tax Offset taper/calculation method (determines who gets less than $250)	s.61-160(2)
10 (Commissioner)	Trusts required to prepare and give capital gains category statements to beneficiaries	s.115-235(4)

An overarching concern: the growing use of delegated legislation

Before addressing the specific instruments in this Bill, CPA Australia wishes to make an observation about the increasing willingness of governments to grant ministers expansive powers to make delegated legislation. This is of genuine concern to the integrity of the parliamentary process and adds uncertainty.

CPA Australia recognises that the expanded use of such powers is sometimes driven by the practical difficulty of passing legislation through Parliament, and that some degree of delegated legislative power is a necessary feature of any modern regulatory system. But there is a meaningful difference between delegating the administrative detail of how a policy operates and delegating the core policy design questions themselves. We believe this Bill crosses that line. The nine ministerial instruments in this package do not delegate administrative detail, they delegate the substantive policy questions that determine who is taxed, at what rate, on which assets, and under what conditions.

CPA Australia urges the committee to treat the breadth of ministerial delegation in this Bill not merely as a compliance concern but as a democratic one — a question about whether Parliament has given away more of its legislative function than is appropriate.

How the disallowance process actually works, and why it is insufficient here

All nine instruments in this Bill are legislative instruments subject to the standard disallowance process under the Legislation Act 2003. We understand the standard process works as follows:

Stage	What happens	Timeline
Making	Minister makes the instrument. No parliamentary approval required before it takes effect. We acknowledge consultation on the draft instrument may occur, but there is no guarantee. Given the current Bill was introduced without exposure draft consultation, the extent of future consultation remains uncertain.	Any time after the Bill passes
Registration	Instrument registered on the Federal Register of Legislation	Before or at time of making
Tabling	Instrument tabled in each House of Parliament	Within 6 sitting days of registration

Senate scrutiny	Senate Standing Committee for the Scrutiny of Delegated Legislation reviews the instrument and may write to the Minister	During tabling period, however the committee has no power to delay operation
Disallowance window	A Senator or MP may give notice of motion to disallow within 15 sitting days of tabling	15 sitting days or approximately 6-8 calendar weeks
Deemed disallowance	If notice of motion not resolved or withdrawn within a further 15 sitting days, instrument is deemed disallowed	Another 15 sitting days
If NOT disallowed	Instrument has full permanent legal effect, until changed by another instrument or legislation	Indefinitely, subject to any sunset clauses

The critical feature of this process is that the instrument takes effect immediately upon registration, before Parliament has had any opportunity to scrutinise it. The disallowance process is reactive, not proactive: Parliament must act to stop the instrument operating, rather than the executive having to seek Parliament's approval before it does. For instruments that define fundamental concepts like 'new residential dwelling' or restore major tax concessions to categories of investor, the burden of action falls entirely on Parliament, and the 15 sitting day window is short.

This stands in sharp contrast to the process for primary legislation, where a Bill must pass both Houses, receive Royal Assent, and typically be preceded by exposure drafts, public consultation, and committee scrutiny. For the nine instruments in this Bill, none of those safeguards apply unless Parliament or the Minister chooses to impose them voluntarily.

The legislative instruments — what each one actually empowers

CPA Australia sets out below our analysis of the scope and policy concerns arising from each of the nine instruments. For each instrument, the key question is: what does the absence of limiting criteria in the Bill allow a future government to do, and what protection does the standard disallowance process actually provide?

Instrument 1 — New residential dwelling definition (s.26-160(4)) — MANDATORY

This is the only mandatory instrument in the Bill. The legislation cannot operate as intended without it. The Minister must determine what counts as a 'new residential dwelling', the term that divides investors who retain full negative gearing and the 50 per cent CGT discount from those who do not.

The scope of this power is significant. The only constraint in the Bill is that a 'new residential dwelling' must first qualify as a 'residential dwelling' under section 26-160(1), which excludes caravans, boats, and hotels. Beyond that, the Minister has unlimited discretion. Section 26-160(4) expressly states the requirements 'may include' requirements relating to the kind of dwelling, how it was acquired, whether it was built on vacant land, whether it adds to housing supply, but 'may include' is permissive, not mandatory. The Minister is not required to include any of these criteria.

Instrument 2— Apportionment method for transitional gain-splitting between pre- and post-July 2027 periods

Section 112-185 of the ITAA 1997, as inserted by this Bill, empowers the Minister to determine by legislative instrument an alternative method — called an 'apportioning method' — for calculating the deemed market value of a CGT asset at 30 June 2027. That deemed value is the critical figure in the transitional regime: it becomes the reset cost base for the post-July 2027 period and simultaneously fixes the amount of the deferred gain (the pre-July 2027 component that retains the 50% discount). Without the instrument, the only mechanism available to a taxpayer is formal market valuation — commissioning an independent valuation of the asset as at 30 June 2027. Section 112-185 creates the legal authority for the Minister to offer taxpayers a simpler, formula-based alternative to that formal valuation. The section itself contains no formula, no criteria, and no constraints on what the apportioning method may or may not do — those matters are entirely left to the instrument. See Appendix F for further discussion.

Instrument 3 — Additional CGT asset classes eligible for 50 per cent discount (s.115-102(3))

Section 115-102(3) allows the Minister to determine, by legislative instrument, one or more kinds of CGT assets to be covered by section 115-102(2) — the provision that retains the 50 per cent CGT discount for new residential dwellings. There are no limiting criteria in the Bill.

CPA Australia acknowledges that there may be legitimate policy reasons to preserve the 50 per cent CGT discount for certain categories of assets beyond new residential dwellings. For example, interests in high-growth companies may warrant consideration where doing so supports productivity, innovation, entrepreneurship and business investment.

However, where Parliament has identified asset classes that should continue to benefit from concessional treatment, our preference is for those asset classes to be specified in the legislation rather than determined through delegated legislation. This would provide greater certainty, transparency and parliamentary scrutiny. Consistent with our comments regarding active assets, any intended categories of assets that should be subject to the 50 per cent discount should, as far as practicable, be set out in the primary legislation.

Instrument 4 — Income support payment exemptions from minimum tax (s.119-15(2))

Section 119-15(2) allows the Minister to determine which government payments exempt a taxpayer from the 30 per cent minimum tax. The constraint is that the payment must be a social security payment under the Social Security Act 1991, or a means-tested or incapacity-related government payment. It leaves an open discretion over which specific payments are included and whether any minimum period of receipt is required.

Instrument 5 — Additional dwelling activities/purposes exempt from negative gearing quarantine (s.26-155(2)(c))

Section 26-155(2)(c) allows the Minister to determine, by legislative instrument, that the use or holding of a residential dwelling for an activity or purpose exempts it from the negative gearing quarantine. There are no limiting criteria. The Minister may determine any activity or purpose.

Instrument 6 — Additional business/enterprise types exempt from negative gearing quarantine (s.26-155(2)(d))

Section 26-155(2)(d) allows the Minister to determine that the use of a residential dwelling for a business or enterprise of a determined kind exempts it from quarantining. There is no limiting criteria.

Instrument 7 — Additional entity classes exempt from negative gearing quarantine (s.26-155(4)(c))

Section 26-155(4)(c) allows the Minister to determine that an entire class of entities is exempt from the negative gearing quarantine, beyond the widely held unit trusts and complying superannuation entities already exempted in paragraphs (a) and (b). There are no limiting criteria.

Instrument 8 — Additional dwelling classes excluded from 'residential dwelling' definition (s.26-160(1)(e))

Section 26-160(1)(e) allows the Minister to exclude additional classes of dwellings from the definition of 'residential dwelling' altogether, beyond the caravans, boats, hotels, and student accommodation already excluded in paragraphs (a) to (d). If a dwelling is not a 'residential dwelling', it falls outside the negative gearing quarantine.

Instrument 9 — WATO taper/calculation method (s.61-160(2))

Section 61-160(2) allows the Minister to determine the method for calculating the Working Australians Tax Offset for any taxpayer whose offset is less than the maximum $250. The $250 cap is in the legislation, however the taper rate, the income threshold at which the offset begins to phase down, and potentially the income level at which it cuts out entirely are all in the instrument.

Instrument 10 — Trust beneficiary disclosure obligations (s.115-235(4) — Commissioner)

Section 115-235(4) allows the Commissioner, not the Minister, to determine which trusts must prepare and give capital gains category statements to beneficiaries, and the timeframe for doing so. This is an administrative instrument rather than a policy instrument, and the Commissioner is a more appropriate maker of this instrument than the Minister.

The cumulative effect — a reform that can be undone without Parliament

Taking the nine instruments together, the cumulative effect is that: a future government, or indeed this government, could use instruments 1, 2, 4, 5, 6, and 7 to expand the tax concessions that this Bill purports to remove, without passing any new legislation and without a formal parliamentary vote. This could be appropriate in some cases but the preference is to have these determined before primary legislation is introduced.

CPA Australia's recommends that Parliament not pass tax reform legislation that contains legislative instruments that go to the substantive policy questions that determine who is taxed, at what rate, on which assets, and under what conditions. This creates too much taxpayer uncertainty.

Recommendation

Should the committee support the passage of the Bill, it should do so on the condition that:
(a) Instruments 1, 2, 3, 4, 5, 6, and 7 be subject to affirmative resolution of both Houses before taking effect, not merely retrospective disallowance, given that each has the potential to substantially alter the policy effect of the reforms Parliament has passed;

(b) On instrument 3, where Parliament has identified classes of assets that should continue to benefit from concessional treatment, such asset classes be specified in the primary legislation, not determined through delegated legislation. This would provide greater certainty, transparency and parliamentary scrutiny. Consistent with our comments regarding active assets, any intended categories of assets that should be subject to the 50 per cent discount should, as far as practicable, be set out in the primary legislation.

(c) All instruments be subject to mandatory prior public consultation of no less than 4 weeks before making;

(d) The Government provide the committee with a complete timetable for release of all instruments; and

(e) The Senate refer all nine instruments to the Senate Standing Committee for the Scrutiny of Delegated Legislation as a priority matter when they are tabled.

Appendix B. Proposed solution on the treatment of capital gains of small and 'start-up' businesses

The Treasurer has publicly stated that the Government is consulting with stakeholders on 'the treatment of capital gains of small and start-up businesses where indexation is applied to a low or zero cost base.' This is a genuine and serious gap in the current legislation before Parliament, and CPA Australia supports these consultations, as a positive outcome is necessary to boost productivity, innovation and entrepreneurship.

The problem arises because indexation works by uplifting the cost base by CPI over the holding period. For a business asset acquired at a low or zero cost, 'sweat equity' in a start-up, shares issued under an employee share scheme, a founder's initial share capital, or intellectual property developed rather than purchased, the cost base may be $1,000 or less. A CPI uplift of, say, 20 per cent on a cost base of $1,000 produces an indexed cost base of $1,200. If the asset sells for $2 million, the taxpayer is taxed on $1,998,800 of real gain. The 50 per cent discount would have produced a taxable gain of $999,400. The indexation regime produces an outcome materially worse than the discount for this cohort, and unlike high-income earners timing large asset sales, these are genuinely people who built something from a very low base.

CPA Australia's position is that this problem is not limited to start-ups. It affects any and all small and medium business owners who have built genuine enterprise value in an active business from a low initial capital base. The frame should not be 'start-up', which implies a technology company with venture capital backing. The problem is structural and affects the local tradesperson who incorporated for $1, the accountant who bought into a practice for nominal consideration, and the manufacturer who grew a business from a garage. In other words, the policy should support all low or zero cost base businesses, rather than being limited to specific sectors.

CPA Australia's proposed three-tier framework

CPA Australia proposes that the Bill be amended, or second-tranche legislation be introduced, to create a three-tier CGT treatment for business asset disposals from 1 July 2027. The three tiers leverage existing, well-understood definitions already embedded in the ITAA 1997, minimising new compliance obligations and interpretive uncertainty.

Tier	Conditions	CGT Treatment
Tier 1 — Small business concessions	Meets all basic conditions in Division 152, ITAA 1997 (aggregated turnover under $2m or net assets under $6m; active asset test satisfied; other conditions met)	Existing Division 152 concessions apply — effectively tax-free or close to it (15-year exemption, 50 per cent active asset reduction, retirement exemption up to $500,000, or rollover)
Tier 2 — Active business	**Does not fully satisfy Division 152 but: (a) the CGT asset satisfies the meaning of active asset under s.152-40, ITAA 1997; AND (b) the**	**Retains access to the 50 per cent CGT discount (as for pre-1 July**

discount (proposed)	aggregated turnover of the entity (including connected entities and affiliates) does not exceed $20 million in the income year of disposal	2027 gains). No indexation required, no minimum tax applies
Tier 3 — General regime	All other CGT assets (including passive investment assets, residential property, share portfolios held by non-business investors)	New indexation regime with 30 per cent minimum tax, as proposed in the Bill

Meaning of active asset

The meaning of “active asset” in section 152-40 of the ITAA 1997 is a mature, well-litigated provision with substantial ATO guidance. It requires that the asset be used, or held ready for use, in the course of carrying on a business by the taxpayer, an affiliate, or a connected entity. It excludes assets whose main use is to derive rent, financial instruments, and shares in interposed entities that do not themselves meet the active asset threshold.

Using the meaning of active asset as the gateway for our proposed Tier 2 has three advantages:

1. It targets genuine business assets, not passive investment assets. A residential investment property does not satisfy the active asset test. A share portfolio held outside a business does not. The carve-out is therefore structurally confined to what the policy intends to protect.
2. The definition already exists in the Act. No new concepts need to be defined. No new interpretive uncertainty is created. Tax practitioners and taxpayers are already familiar with the test and its application.
3. It is consistent with the existing policy architecture. Division 152 itself uses the active asset test as a central condition. Extending a modified version of the 50 per cent discount to assets that satisfy the active asset test but do not otherwise meet the Division 152 basic conditions is a coherent extension of existing policy.

Aggregated turnover threshold

CPA Australia proposes an aggregated turnover threshold of $20 million as the upper limit for Tier 2. This threshold has been deliberately chosen to sit above the existing small business CGT concession threshold ($2 million) but below the base rate entity threshold ($50 million), and is consistent with the following policy rationale:

1. The $2 million turnover threshold for Division 152 is widely recognised as too low for the modern Australian business environment. Many medium-sized businesses, with 15 to 50 employees, real enterprise value built over years, and genuine active business operations, have turnover between $2 million and $20 million. Their owners face the same low-cost-base problem, and have the same legitimate expectations of fairness.
2. The $20 million threshold aligns with the ATO's existing definition of a 'medium business' in its compliance framework and is consistent with thresholds used in other jurisdictions for analogous carve-outs.
3. A threshold of $50 million (the base rate entity threshold) would be too broad, potentially including large private businesses with significant enterprise value where the indexation regime is a reasonable and fair outcome.

CPA Australia acknowledges that the $20 million figure is a policy judgment and invites the committee to consider whether a range of $10 million to $50 million is appropriate. The critical design principle is that the threshold should be set by reference to aggregated turnover, including connected entities and affiliates, to prevent artificial restructuring to access the concession.

The indexation opt-in for Tier 2 taxpayers

CPA Australia notes that the Bill already creates an opt-in mechanism in sections 115-102(5) and 115-125(6), which allow taxpayers eligible for the new residential dwelling or affordable housing 50 per cent discount to instead choose indexation if it produces a better outcome. The same opt-in architecture should be available to Tier 2 taxpayers. A business owner whose cost base, while low, has been materially uplifted by CPI over a 20-year holding period should be entitled to choose whichever method produces the lower taxable gain.

Preserving taxpayer optionality is consistent with the Bill's approach to housing assets and avoids the perverse outcome of forcing a taxpayer onto a regime that is worse for them than the one they would otherwise have access to.

Interaction with the 30 per cent minimum tax

Under CPA Australia's proposed framework, Tier 2 gains (active business assets, aggregated turnover under $20 million) would be treated as discount capital gains under section 115-100. This means they would be reduced by the 50 per cent discount at step 5 of the section 102-5(1) method statement, in the same manner as pre-July 2027 gains on other assets.

Critically, the minimum tax in Division 119 applies only to 'residential capital gains' and 'non-residential capital gains' as defined in section 102-6 — that is, post-July 2027 current-period gains that have not been reduced by the discount. If Tier 2 gains are structured as discount capital gains under the existing section 115-100 framework (analogously to new residential dwellings under section 115-102), they would sit outside the minimum tax base entirely. The 30 per cent minimum tax would not apply.

This is the right policy outcome. A business owner who built genuine enterprise value over five years from a zero or low cost base should not be subject to a minimum tax designed to prevent high-wealth individuals from timing asset sales to minimise tax. These are different populations with different policy rationales.

Draft legislative pathway

CPA Australia proposes that the carve-out be implemented through a new section 115-103 in the ITAA 1997, modelled on the existing section 115-102 (new residential dwellings). The proposed structure is:

1. A new section 115-103 would provide that the 50 per cent discount applies to a discount capital gain if:
   (a) the taxpayer is an individual;
   (b) neither section 115-105 nor 115-110 (foreign and temporary residents) applies; and
   (c) the CGT asset satisfies the meaning of active asset within section 152-40 at the time of the CGT event; and
   (d) the aggregated turnover of the taxpayer (and connected entities and affiliates) for the income year does not exceed $20 million.
2. The new section should include an opt-in to indexation, mirroring section 115-102(5), so taxpayers may choose indexation if it produces a more favourable outcome.

3. The new section should extend to trust gains attributed to individual beneficiaries under section 115-215, consistent with the treatment of new residential dwelling gains under section 115-102(4).
4. Consequential amendments would be required to section 119-5 to exclude Tier 2 gains from the minimum tax capital gain base, consistent with the treatment of new residential dwelling and affordable housing gains.
5. The aggregated turnover threshold should be defined by reference to section 328-115 (annual turnover) and section 328-120 (aggregated turnover), consistent with existing usage throughout the Act.

The provision refers to the meaning of active asset "within section 152-40" but does not specify whether this incorporates the proportional ownership period test in s.152-35, or whether it is a point-in-time assessment at the CGT event date. CPA Australia's view is that a point-in-time assessment under s.152-40 is the more appropriate test for Tier 2 purposes, given that Tier 2 is designed to identify assets that are active business assets at the time of disposal rather than to replicate all conditions for the small business concessions. However, the 80 per cent threshold in s.152-40(3) should be reduced, with CPA Australia suggesting 60 per cent, to make the carve-out genuinely accessible to businesses that carry some level of retained earnings or working capital alongside active assets. To prevent pre-sale restructuring eroding the integrity of the test, CPA Australia recommends that distributions or transactions occurring within 24 months of a CGT event that increase the active asset percentage be disregarded for this purpose.

Recommendation — Active business carve-out

CPA Australia recommends that the Government introduce, as part of second-tranche legislation to be tabled by 30 September 2026, a new section 115-103 of the ITAA 1997 providing that:

a) the 50 per cent CGT discount is retained for capital gains from CGT assets that satisfy the meaning of active asset under section 152-40 where the taxpayer's aggregated turnover (including connected entities and affiliates) does not exceed $20 million in the income year of disposal;
b) taxpayers meeting these conditions may alternatively choose indexation if it produces a lower taxable gain;
c) gains under the new provision are excluded from the minimum tax capital gain base in section 119-5; and
d) the provision applies to CGT events happening on or after 1 July 2027.

In the interim, the Government should provide a public statement confirming its policy intent and the ATO should exercise compliance discretion in relation to affected taxpayers pending enactment.

Worked example — the three-tier framework in practice

The following example illustrates how the three-tier framework would operate for three business owners with different profiles:

	Sarah — Tier 1	Michael — Tier 2 (proposed)	Priya — Tier 3
Business type	Sole trader — landscaping	Technology company founder	Property investor
Asset sold	Business goodwill and tools	Shares in Pty Ltd (50% owned)	Established rental property
Cost base	$50,000	$1 (founder's share)	$600,000
Sale price	$800,000	$3,000,000	$1,100,000
Aggregated turnover	$1.8 million	$12 million	N/A
Division 152 conditions met?	Yes	No — turnover exceeds $2m	No — not active asset
Meaning of active asset	Yes	Yes	No — rental property
Applicable tier	Tier 1 — Division 152	Tier 2 — proposed s.115-103	Tier 3 — general
CGT treatment	Retirement exemption — nil tax	50% discount — $1,499,999 assessable	Indexation — $428,000 assessable (approx.)
30% minimum tax?	No	No (outside min. tax base)	Yes if tax rate on gain below 30%
Approximate tax	Nil	~$670,601 at marginal rates	~$158,000 (approx.)

Michael's outcome under the proposed Tier 2 carve-out; taxed on $1,499,999 of a $2,999,999 gain, is materially fairer than the general indexation regime, which would tax him on $2,999,999 of gain (a CPI uplift on $1 is negligible). The 50 per cent discount reflects the genuine risk, effort, and time invested in building an active business from inception. Like the proposed retention of the CGT discount for new housing, which is intended to encourage increased housing supply and improve housing affordability, retaining the discount for smaller active businesses should similarly support innovation and entrepreneurship, while enhancing productivity, another key economic priority.

Appendix C: The 30 per cent minimum tax in practice — what four examples reveal

CPA Australia has prepared four worked examples of the Division 119 minimum tax. The calculations in each example use the basic income tax liability per section 4-10 of the ITAA 1997, before offsets and excluding Medicare levy, consistent with the Division 119 method statement in section 119-10(2). The applicable rates from 1 July 2027 are: nil on $0–$18,200; 14 per cent on $18,201 to $45,000; 30 per cent on $45,001 to $135,000.

The four examples are set out below, followed by five findings that emerge from them. The first four address structural features of the minimum tax. The fifth addresses fairness and vertical equity, matters CPA Australia submits the committee should examine before the Bill proceeds. They demonstrate the differences in tax treatment under the current law (should it continue) compared with the proposed law.

There is a further dimension to the fairness concern that the Bill and EM does not address. When Australia last used CPI indexation (from 1985 to 1999) it operated alongside an income averaging mechanism that prevented a capital gain accumulated over many years from being bunched into a single high-income year. The averaging mechanism allowed the effective tax rate to reflect the taxpayer's income profile over the full holding period, not just the year of sale. The Bill restores indexation but not averaging — and replaces it with a 30% minimum tax floor that produces the opposite effect: it ensures that even taxpayers with genuinely low ordinary income pay at least 30% on their gains, regardless of how long the gain accrued or what their income was during that period.

Example 1 of 4 — Minimum tax bites hardest

Margaret — retired investor

Profile	Detail
Age / situation	68, fully retired
Taxable income	$14,000 investment income
Super pension	$80,000 (tax-free — not in taxable income)
Asset sold	ASX-listed shares purchased April 2035
Indexed gain	$40,000
Gain category	Non-residential capital gain (s.102-6(1))

	Old law — 50% discount	New law — indexation + minimum tax
Investment income	$14,000	$14,000
Capital gain	$40,000 nominal	$40,000 indexed
50% discount applied	−$20,000	Nil
Taxable income	$34,000	$54,000
Basic income tax liability (ITL) (s.4-10, before offsets)	14% × $15,800 = $2,212	14%×$26,800 + 30%×$9,000 = $6,452
Basic ITL excl. gain ($14,000)	Nil ($14,000 below threshold)	Nil
Step 1: 30% × $40,000	N/A	$12,000
Step 4: tax on gain	N/A	$6,452 − nil = $6,452
Step 5: minimum tax gap	N/A	$12,000 − $6,452 = $5,548
Less LITO (full — income below $37,500)	−$700	−$700 (cannot reduce minimum tax below 30%)
Tax payable (before Medicare levy)	$1,512	$12,000

Old law tax	New law tax	Extra tax	Minimum tax gap
$1,512	$12,000	+$10,488	$5,548

Example 2 of 4 — Minimum tax does not apply

David — mid-career professional

Profile	Detail

Age / situation	42, project manager	
Salary	$95,000	
Asset sold	Share portfolio purchased in 2028	
Indexed gain	$30,000	
Gain category	Non-residential capital gain (s.102-6(1))	
	Old law — 50% discount	**New law — indexation + minimum tax**
Salary	$95,000	$95,000
Capital gain	$30,000 nominal	$30,000 indexed
50% discount applied	−$15,000	Nil
Taxable income	$110,000	$125,000
Basic ITL (s.4-10, before offsets)	14%×$26,800 + 30%×$65,000 = $23,252	14%×$26,800 + 30%×$80,000 = $27,752
Basic ITL excl. gain ($95,000)	N/A	14%×$26,800 + 30%×$50,000 = $18,752
Step 1: 30% × $30,000	N/A	$9,000
Step 4: tax on gain	N/A	$27,752 − $18,752 = $9,000
Step 5: minimum tax gap	N/A	$9,000 − $9,000 = Nil
Tax payable (before Medicare levy)	$23,252	$27,752

Old law tax	New law tax	Extra tax	Minimum tax gap

$23,252	$27,752	+$4,500	Nil

Example 3 of 4 — Unexpected tax bill — straddles bracket boundary

Sally — part-time worker

Profile	Detail
Age / situation	34, works part-time
Part-time income	$28,000
Asset sold	Shares purchased in 2028
Indexed gain	$25,000
Gain category	Non-residential capital gain (s.102-6(1))

	Old law — 50% discount	New law — indexation + minimum tax
Part-time income	$28,000	$28,000
Capital gain	$25,000 nominal	$25,000 indexed
50% discount applied	−$12,500	Nil
Taxable income	$40,500	$53,000
Basic ITL (s.4-10, before offsets)	14% × $22,300 = $3,122	14%×$26,800 + 30%×$8,000 = $6,152
Basic ITL excl. gain ($28,000)	N/A	14% × $9,800 = $1,372
Step 1: 30% × $25,000	N/A	$7,500
Step 4: tax on gain	N/A	$6,152 − $1,372 = $4,780

Step 5: minimum tax gap	N/A	$7,500 − $4,780 = $2,720
Less LITO	−$700	−$700 (cannot reduce minimum tax below 30%)
Tax payable (before Medicare levy)	$2,422	$8,872

Old law tax	New law tax	Extra tax	Minimum tax gap
$2,422	$8,872	+$6,450	$2,720

Example 4 of 4 — Graduate saving for first home deposit

Tom — graduate engineer, age 26

Profile	Detail
Age / situation	26, graduate engineer
Salary	$72,000
Asset sold	Six parcels of ASX shares purchased 2028–2030
Nominal gain	$16,000 ($46,000 proceeds minus $30,000 cost)
Indexed cost base	$32,400 (8% CPI uplift over ~3 years)
Indexed gain	$13,600
Gain category	Non-residential capital gain (s.102-6(1))
Purpose of sale	First home deposit top-up

	Old law — 50% discount	New law — indexation + minimum tax
Salary	$72,000	$72,000
Capital gain (nominal / indexed)	$16,000 nominal	$13,600 indexed
50% discount applied	−$8,000	Nil
Taxable income	$80,000	$85,600
Basic ITL (s.4-10, before offsets)	14%×$26,800 + 30%×$35,000 = $14,252	14%×$26,800 + 30%×$40,600 = $15,932
Basic ITL excl. gain ($72,000)	N/A	14%×$26,800 + 30%×$27,000 = $11,852
Step 1: 30% × $13,600	N/A	$4,080
Step 4: tax on gain	N/A	$15,932 − $11,852 = $4,080
Step 5: minimum tax gap	N/A	$4,080 − $4,080 = Nil
Tax payable (before Medicare levy)	$14,252	$15,932

Old law tax	New law tax	Extra tax	Minimum tax gap
$14,252	$15,932	+$1,680	Nil

Finding 1 — The minimum tax falls hardest on taxpayers it was not designed to target

The policy rationale for the minimum tax, stated at paragraph 1.172 of the Explanatory Memorandum, is to prevent taxpayers from deferring asset sales until they are in a low marginal tax bracket, such as retirement, to minimise tax. The paradigm case is a high-income investor who accumulates significant assets during working life and engineers a low-income disposal year.

Margaret's example demonstrates that the minimum tax does not confine itself to that paradigm. Margaret has $14,000 of taxable investment income. She is not a high-wealth investor timing a strategic sale. She is a retiree with genuinely modest income selling shares she purchased in 2028 in the ordinary course of managing retirement savings. Under the old 50 per cent discount system she would have paid $1,512 in tax. Under the new regime she pays $12,000 — an increase of 694 per cent.

The mechanism in section 119-10 has no capacity to distinguish between a taxpayer whose low income reflects deliberate deferral and one whose income is genuinely modest. Both face the same minimum tax floor. A reform designed to address potential tax planning by a small cohort of high-wealth investors applies with equal force to ordinary retirees on modest incomes, a population that was not identified as the policy target in the Explanatory Memorandum and whose treatment has not been separately analysed or disclosed by Treasury.

We also note that, as stated in paragraph 1.174, the minimum tax will not apply to recipients of certain income support payments prescribed in a legislative instrument, provided the recipient receives such a payment at any time in the income year. This creates an incentive for the type of tax planning that the policy is intended to address.

This measure does not adequately account for low-income taxpayers who are not eligible for income support due to their partner’s income and who dispose of CGT assets for non-tax planning purposes. For example, individuals starting a business may sell personal assets to fund their activities due to limited access to finance. In such cases, asset disposals are driven by necessity, not tax planning.

Finding 2 — For middle-income earners the minimum tax is irrelevant, but the additional tax is real

David's example is important for what it does not show. His marginal rate on the capital gain is already 30 per cent, so the minimum tax gap at step 5 of the Division 119 method statement is nil, therefore no top-up applies. Yet David pays $4,500 more tax than under the existing system. The additional tax comes entirely from the removal of the 50 per cent discount, partially offset by CPI indexation.

This has two implications. First, the minimum tax is not the primary mechanism by which middle-income earners are affected; the discount removal is. For the approximately 7.1 million Australians in the $45,001–$135,000 bracket, the minimum tax produces no additional liability, but the loss of the discount does. Second, the compliance burden of Division 119 falls on this cohort regardless. David must complete the five-step minimum tax calculation to confirm his gap is nil, even though no additional tax is payable. The cost of confirming the minimum tax does not apply is the same as the cost of calculating it when it does. For middle-income earners, the minimum tax imposes a compliance burden without a tax purpose.

Finding 3 — The minimum tax bites unexpectedly for taxpayers who straddle the $45,000 bracket boundary

Sally's example reveals a structural feature of the minimum tax not described anywhere in the Explanatory Memorandum. Sally earns $28,000. When her $25,000 gain is added, her taxable income is $53,000. The portion of the gain falling within the 14 per cent bracket triggers a $2,720 minimum tax top-up, not because Sally has engaged in any tax planning, but because her ordinary income sits below the second bracket boundary.

This bracket-straddling effect will affect part-time workers, people returning to the workforce after career breaks, people in temporarily lower-income years, and others with ordinary income below $45,000 who realise capital gains of any size. The Explanatory Memorandum contains no worked example illustrating this fact pattern and no policy discussion of whether it is the intended outcome. The number of taxpayers affected is not published by Treasury and has not been modelled in any disclosed regulatory impact analysis.

Finding 4 — For smaller investors, the compliance cost may rival or exceed the additional tax

Tom's example is structurally different: the minimum tax does not apply at all. His $1,680 additional tax comes entirely from losing the 50 per cent discount. The significance of Tom's example is therefore not the tax amount but the compliance burden imposed to arrive at it. Tom bought shares in six tranches. Each requires its own CPI indexation calculation under the new subsection 960-275(1B). He must then apply the seven-step method statement in section 102-5(1) and complete the five-step Division 119 calculation to confirm the minimum tax gap is nil. The complexity involved means it is highly unlikely he can self-prepare his tax return. He will therefore most likely need a registered tax agent, adding approximately $300 to $450 to his cost.

His total additional burden — $1,680 extra tax plus up to $450 in professional fees — is approximately $2,130. Expressed as a proportion of his $13,600 indexed gain, the compliance cost rate is approximately 15.7 per cent of the gain itself. The Explanatory Memorandum does not address this distributional effect of the compliance burden and Treasury's regulatory impact statement does not disaggregate compliance costs by gain size or taxpayer income level. CPA Australia recommends this disaggregated analysis should be required before the Bill proceeds.

Finding 5 — The minimum tax raises serious questions of fairness and vertical equity

The additional burden falls hardest on lower-income taxpayers

The additional tax imposed by the reform, expressed as a proportion of the capital gain, is higher for lower-income taxpayers than for those with higher incomes. This is demonstrated directly from the four examples:

Taxpayer	Ordinary income	Indexed gain	Additional tax	Extra tax as % of gain
Margaret — retired	$14,000	$40,000	+$10,488	26.2%
Sally — part-time worker	$28,000	$25,000	+$6,450	25.8%
Tom — graduate	$72,000	$13,600	+$1,680	12.4%
David — mid-career professional	$95,000	$30,000	+$4,500	15.0%

The additional burden as a percentage of the gain is highest for the two lowest-income taxpayers; Margaret at 26.2 per cent and Sally at 25.8 per cent. This is driven by the 30 per cent minimum tax, making the measure regressive in its treatment of capital gains.

The minimum tax cannot distinguish between strategic deferral and involuntary low income

The policy rationale in paragraph 1.172 of the Explanatory Memorandum targets taxpayers who defer asset sales to exploit a low marginal rate. None of the four taxpayers in these examples has done this:

1. Margaret's income is low because she is retired — not because she has structured her affairs to defer tax.
2. Sally's income is modest because she works part-time — not because she has chosen a low-income year strategically.
3. Tom is in a lower income year because he recently graduated.
4. David's marginal rate already equals the floor — the minimum tax does not apply to him at all.

The mechanism in section 119-10 applies identically to a taxpayer whose low income reflects sophisticated tax planning and one whose low income reflects ordinary life circumstances, for example, retirement, part-time work, career commencement, starting a business or a temporarily difficult income year. It cannot distinguish between them. A reform designed to address tax planning by a relatively small cohort of high-wealth investors will in practice impose its heaviest proportional burden on taxpayers whose low income is entirely involuntary. This outcome is not acknowledged in the Explanatory Memorandum and has not been the subject of any disclosed distributional analysis by Treasury.

The compliance burden is regressive

As identified in Finding 4, the compliance burden of navigating the seven-step method statement and the five-step Division 119 minimum tax calculation is uniform regardless of gain size or taxpayer income level. This compliance burden is regressive in the same direction as the tax burden: it represents a far larger fraction of the gain, and a far larger imposition relative to the taxpayer's resources and financial sophistication, for Margaret, Sally, and Tom than for David.

Wealthier investors with complex affairs and access to specialist tax advisers will structure their affairs over time to minimise exposure to the minimum tax and the discount removal. Lower-income investors are less likely to have that capacity. The reform therefore concentrates its practical burden, both tax and compliance, on precisely the taxpayers who are least equipped to navigate it, while the sophisticated high-wealth investors who are the intended target of the minimum tax policy have the greatest capacity to adapt their affairs.

The income support exemption does not adequately address these fairness concerns

The government's response to these fairness concerns is the income support exemption in section 119-15. CPA Australia acknowledges the intent of this provision. However, the exemption's binary design produces its own fairness problem. Whether Margaret pays $0 or $12,000 in tax depends on whether she receives the Age Pension on any day of the income year. That in turn depends on whether her share portfolio pushes her above the assets test threshold.

The difference between zero tax and a $12,000 tax bill turns on a portfolio value fluctuation that may be beyond Margaret's control. If her shares rise in value, the very thing the minimum tax is designed to capture, she may be pushed above the assets test threshold, lose pension eligibility, and simultaneously lose the minimum tax exemption. She faces both a higher tax bill and a lower pension in the same scenario.

CPA Australia's position on fairness

We acknowledge the policy goal of preventing high-wealth investors from engineering low-tax disposals. However, the mechanism chosen, a flat minimum tax floor applied identically to all taxpayers regardless of income level, wealth, or tax planning behaviour, is an imprecise instrument that produces regressive outcomes and does not confine itself to the intended target population.

Recommendation — Distributional analysis of the minimum tax

The committee should recommend that Treasury be required to publish, before the Bill proceeds:

a) a distributional analysis of the Division 119 minimum tax showing the effective rate on capital gains and the average additional tax by taxable income decile;
b) the number of taxpayers in each decile expected to face a minimum tax top-up in 2027-28; and
c) a modelling comparison between the current flat floor design and a tapered alternative under which the minimum tax floor reduces progressively for taxpayers whose ordinary income falls below $45,000.

Without this analysis, Parliament is being asked to legislate a redistributive mechanism without knowing its distributional consequences.

Summary — Four examples compared

	Margaret	David	Sally	Tom
Situation	Retired, $14k income	Mid-career, $95k salary	Part-time, $28k income	Graduate, $72k salary
Indexed gain	$40,000	$30,000	$25,000	$13,600
Old law tax	$1,512	$23,252	$2,422	$14,252
New law tax	$12,000	$27,752	$8,872	$15,932
Extra tax	+$10,488	+$4,500	+$6,450	+$1,680
Min. tax gap	$5,548	Nil	$2,720	Nil
Min. tax applies?	YES	No	YES	No
Key issue	Low income, min. tax leads to a significant increase in tax payable	Higher tax from losing discount	Straddles bracket — min. tax increases tax payable	Additional compliance costs

Note on the minimum tax: it applies (on taxpayers whose effective rate on the capital gain falls **below 30%**. This occurs when income is below the $45,000 bracket (Margaret) or when income straddles that bracket (Saally). For taxpayers already in the 30% bracket (David, Tom), the minimum tax produces no top-up, however they still pay more tax from losing the 50 per cent discount.

Appendix D: Errors and discrepancies in the Explanatory Memorandum

CPA Australia has identified a number of errors and discrepancies in the Explanatory Memorandum (EM) when compared against the operative provisions of the Bill. They are relevant to the committee's consideration for two reasons:

1. several are consequential errors that may cause practitioners and taxpayers to misapply the legislation; and
2. taken together they are consistent with CPA Australia's broader submission that the legislation was introduced without adequate preparation time and without the benefit of a standard exposure draft consultation process.

The number and nature of these discrepancies also highlight the inherent complexity of the proposed measures. If errors can arise in the drafting and explanatory materials prepared by Treasury, there is a significant risk that taxpayers and their advisers will encounter even greater difficulty interpreting and applying the law in practice.

Many of these issues would likely have been identified and addressed through a proper consultation process prior to introduction. Errors or inconsistencies in the explanatory materials increase the risk of inadvertent non-compliance, disputes and unnecessary compliance costs.

These discrepancies are set out below:

Issue Error 1: Example 1.17 — Minimum tax calculation uses wrong tax rates throughout

Provision: EM para 1.196, Example 1.17; s.119-10(2)

The error

Example 1.17 of the EM sets out a worked example of the Division 119 minimum tax calculation for a taxpayer named Genevieve who has $40,000 of investment income and a $50,000 minimum tax capital gain (total taxable income $90,000). The EM states at Step 2 that the basic income tax liability on $90,000 is $18,000, and at Step 3 that the basic income tax liability on $40,000 (excluding the gain) is $3,500. Neither figure is correct under the rates legislated to apply from 1 July 2027.

The correct rates from 1 July 2027 are: nil on $0-$18,200; 14 per cent on $18,201-$45,000; 30 per cent on $45,001-$135,000. Applying these rates:

Step	Description	EM figure	Correct figure
Step 1	30% × $50,000 minimum tax capital gain	$15,000	$15,000 ✓
Step 2	Basic ITL on $90,000 (14%×$26,800 + 30%×$45,000)	$18,000	$17,252

Step 3	Basic ITL on $40,000 excl. gain (14%×$21,800)	$3,500	$3,052
Step 4	Step 2 minus Step 3	$14,500	$14,200
Step 5	Step 1 minus Step 4 (minimum tax gap)	$500	$800 — 60% higher than the EM figure

The correct minimum tax gap is $800 — 60% higher than the EM's figure of $500. No available rate schedule produces the EM's figures.

Example 1.17 is the only worked example of the Division 119 minimum tax calculation in the document.

CPA Australia recommendation

The Government should issue a corrected EM addressing Example 1.17 before the 2027-28 tax year commences, confirming:

a) that the correct basic ITL on $90,000 is $17,252 (not $18,000);
b) that the correct basic ITL on $40,000 is $3,052 (not $3,500); and
c) that the correct minimum tax gap amount for the example is $800 (not $500).

Issue Error 2: Example 1.6 — Final instalment date wrong: 1 April 2030 stated but 1 October 2029 is correct for 10 quarterly payments

Provision: EM Example 1.6; s.960-275(1B)

The error

Example 1.6 of the EM illustrates the application of the indexation formula where a CGT asset is acquired through instalment payments. Marcus agrees to acquire an investment asset for 10 equal quarterly instalments of $10,000, with the first payment on 1 July 2027. The EM states the final instalment is paid on 1 April 2030.

This date is incorrect. Ten quarterly payments commencing 1 July 2027 produce the following schedule:

Payment	Date	Payment	Date
1	1 July 2027	6	1 October 2028
2	1 October 2027	7	1 January 2029

3	1 January 2028	8	1 April 2029
4	1 April 2028	9	1 July 2029
5	1 July 2028	10 (final)	1 October 2029

CPA Australia recommendation

Example 1.6 should be corrected to state that the final instalment is paid on 1 October 2029 — the date of the 10th quarterly payment from 1 July 2027. This is a minor correction that does not alter the substance of the example.

Issue Error 3: Example 1.8 — Day counts don't match stated dates; main residence exemption formula described incorrectly

Provision: EM Example 1.8; ss.102-6(2), 118-190

The errors

Example 1.8 of the EM sets out a worked example of the residential capital gain calculation for a taxpayer named Minh Anh who acquires property on 13 October 2027, demolishes the dwelling on 8 May 2032, and sells on 14 June 2035. The example contains two separate errors.

The day counts do not match the stated dates

The EM states the total ownership period is 2,792 days and the dwelling period (acquisition to demolition) is 1,660 days. The actual days between the dates stated in the example are:

Period	Dates	EM figure	Correct figure
Total ownership period	13 Oct 2027 → 14 Jun 2035	2,792 days	2,801 days
Dwelling period (acq → demolition)	13 Oct 2027 → 8 May 2032	1,660 days	1,669 days
Commercial period (demolition → sale)	8 May 2032 → 14 Jun 2035	1,132 days	1,132 days ✓

Using the correct day counts, the downstream calculations all change:

Item	EM figure (using 2,792/1,660)	Correct figure (using 2,801/1,669)
Residential accommodation days (4/10 × dwelling)	664 (4/10 × 1,660)	667.6 (4/10 × 1,669)
Post-2027 ownership period (total − 6/10 × dwelling)	1,796 (2,792 − 996)	1,800.4 (2,801 − 1,001.4)
Main residence exemption reduction	$1,391,261	~$1,398,600 (approx.)
Gain after exemption	$2,508,740	~$2,501,400 (approx.)
Residential capital gain	$927,507	~$927,774 (approx.)
Non-residential capital gain	$1,581,233	~$1,573,626 (approx.)

CPA Australia recommendation

The Government should issue a corrected EM or ATO guidance addressing Example 1.8 to correct the day counts to reflect the stated dates (2,801 total days, 1,669 dwelling days).

Issue Error 4: Example 1.9 — Three errors in the net capital gain method statement calculation

Provision: EM Example 1.9; ss.102-5(1), 102-6

Background

Example 1.9 is the EM's main worked example of the new section 102-5(1) seven-step method statement. It is designed to demonstrate all four gain categories (deferred non-residential, deferred residential, non-residential, and residential) interacting simultaneously with capital losses, quarantined amounts, and the 50 per cent discount.

CPA Australia has identified three separate errors in the example. Two of them partially offset each other, meaning the stated net capital gain of $792,000 is understated by $200,000. The correct figure is $992,000.

The opening positions — what the example states

Asset / gain	EM stated amount	Category
Rights (May 2002) — pre-July 2027 component	$600,000	Deferred non-residential capital gain
Rights (May 2002) — post-July 2027 component	$400,000	Non-residential capital gain
Property A (Jan 2008) — pre-July 2027 component	$1,000,000	Deferred residential capital gain
Property A (Jan 2008) — post-July 2027 component	$500,000	Residential capital gain
Property B (Apr 2029)	$280,000	Residential capital gain
ASX shares (Aug–Nov 2030)	$12,000	Non-residential capital gain
Carried forward net capital loss	$200,000	Applied at Step 2
Quarantined amount	$1,400,000	Applied at Steps 3 and 4

Step 3: Wrong quarantine figure used ($1.2m instead of stated $1.4m)

The facts state the quarantined amount is $1.4 million. At Step 3, the EM applies the quarantined amount to reduce the deferred residential capital gain of $1 million, but then states the remaining quarantine carried to Step 4 is $200,000, which implies only $1. 2 million was applied at Step 3.

The correct remaining quarantine after Step 3 is $400,000 ($1,4 million − $1 mission). The EM appears to have used $1.2 million rather than the stated $1.4 million when calculating what remains.

Step 4: Residential capital gain overstated (flows from Error 6A)

As the wrong remaining quarantine amount of $200,000 is carried forward (should be $400,000), the residential capital gain is overstated at Step 4:

	EM figure	Correct figure

Residential CG entering Step 4	$780,000	$780,000
Remaining quarantine applied	$200,000 (wrong)	$400,000 (correct)
Residential CG remaining after Step 4	$580,000	$380,000

Step 1 and Step 7: The $400,000 non-residential capital gain from the Rights disappears

This is the most significant error and is independent of Errors 6A and 6B. The Rights were purchased in May 2002 and sold in 2030-31. The EM correctly identifies two components arising from the Rights: a deferred non-residential capital gain of $600,000 (the pre-July 2027 portion) and a non-residential capital gain of $400,000 (the post-July 2027 portion). Both are listed in the opening section of the example.

However, in the Step 1 listing of opening positions, the EM shows the non-residential capital gains as $12,000 only; the ASX shares gain. The $400,000 non-residential capital gain from the Rights is absent from Step 1 and does not appear anywhere in the subsequent steps. It has been omitted from the method statement.

Is the $400,000 a discount capital gain that is reduced at Step 5? No. Post-July 2027 non-residential capital gains do not attract the 50 per cent discount, only deferred capital gains (the pre-July 2027 component) are discount capital gains under the new regime. The $400,000 post-July 2027 component of the Rights gain should survive Steps 1 through 5 unchanged and be included in the net capital gain at Step 7.

The correct calculation

Step	EM result	Correct result	Note
Opening: Non-residential CG	$12,000	$412,000	EM omits $400,000 from Rights (post-2027)
Step 1: Current year losses	No reduction (correct)	No reduction (correct)	✓
Step 2: Carried forward loss applied to d_non_res	$400,000 remains (correct)	$400,000 remains (correct)	✓
Step 3: Quarantine applied to d_res	Nil; $200,000 remaining	Nil; $400,000 remaining	EM uses $1.2m not $1.4m

Step 4: Remaining quarantine applied to res	$580,000 remains	$380,000 remains	Flows from Error 6A
Step 5: 50% discount to d_non_res	$200,000 remains (correct)	$200,000 remains (correct)	✓
Step 7: Net capital gain	$792,000	$992,000	Understated by $200,000

The correct net capital gain is $992,000, comprising:

1. $200,000 — deferred non-residential capital gain (Rights pre-July 2027 component, after 50% discount)
2. $412,000 — non-residential capital gain ($400,000 Rights post-July 2027 + $12,000 ASX shares)
3. $380,000 — residential capital gain (after correct application of $400,000 remaining quarantine)

CPA Australia recommendation

The government should issue a corrected EM addressing Example 1.9 to:

a) include the $400,000 non-residential capital gain from the Rights (post-July 2027 component) in Step 1 and throughout the method statement;
b) correct the quarantined amount applied at Step 3 from $1.2 million to $1.4 million, producing a remaining quarantine of $400,000 at Step 4;
c) correct the residential capital gain at Step 4 from $580,000 to $380,000; and
d) correct the net capital gain at Step 7 from $792,000 to $992,000.

Paragraph 1.126 — Section 102-20 described as 'market value substitution' when it is not

Provision: EM para 1.126; ss.102-20, 112-20, 112-160(3), 112-170(3)

The error

Paragraph 1.126 of the EM describes the operation of sections 112-160(3) and 112-170(3), which deal with how a deferred gain or loss is recognised in the year of the later realisation event. The EM states:

'In working out this gain or loss, the rules in section 102-20 around market value substitution are disregarded, given the specific rules for determining the capital proceeds that already apply.'

This description is incorrect. Section 102-20 of the ITAA 1997 has nothing to do with market value substitution. Its heading is 'When can you make a capital gain or loss?' and its operative rule is that a taxpayer can only make a capital gain or capital loss if a CGT event happens. It is a foundational gating provision for the entire CGT regime.

The market value substitution rules for cost base and capital proceeds are in section 112-20 of the ITAA 1997.

Why section 102-20 is disregarded

The deferred gain mechanism works as follows: the deemed sale on 30 June 2027 generates an initial notional gain (associated with the CGT event taken to happen under section 112-155(2)(a) or 112-165(2)(a)). That gain is deferred and recognised only in the income year of the later realisation event. Sections 112-160(3)(a) and 112-170(3)(a) then provide that in the year of realisation, the taxpayer is treated as having a capital gain equal to the initial notional gain — for the deemed CGT event (the 30 June 2027 deemed sale), not for the realisation event itself.

Section 102-20 is disregarded because it requires a CGT event to happen before a capital gain or loss can be made. Without the disregard, the deferred gain could not be recognised in the year of the realisation event, because the CGT event to which it is attributed (the 30 June 2027 deemed sale) has already happened in a prior income year, and no new CGT event is happening at the time of recognition. The disregard of section 102-20 is the mechanism that allows the deferred gain to be brought into assessable income in the realisation year without requiring a fresh CGT event at that point.

This has nothing to do with market value substitution. The EM appears to have confused section 102-20 with section 112-20. These are completely different provisions with completely different purposes.

Why this matters

Section 102-20 is disregarded in five separate places in the Bill — sections 112-160(3)(b), 112-160(4)(b), 112-170(3)(b), 112-170(4)(b), and 112-180(3)(b). Paragraph 1.126 is the only place the EM explains why section 102-20 is disregarded. A practitioner reading the EM's explanation; that it relates to market value substitution, may be misled about the function of one of the foundational CGT provisions and will be unable to correctly reason how the deferred gain mechanism operates in edge cases not illustrated by the EM's examples.

> **CPA Australia recommendation**
>
> Paragraph 1.126 of the EM should be clarified.

Appendix E: Significant interaction issues unresolved and no timetable provided

The EM at paragraph 1.221 explicitly states that this Bill is only 'the first tranche of changes to establish the new CGT regime.' Paragraph 1.222 acknowledges that 'a range of areas are under consideration to determine if future amendments may be appropriate'

The Treasurer has publicly stated that the government is consulting with stakeholders on "the treatment of capital gains of small and start-up businesses where indexation is applied to a low or zero cost base, as well as other complex and specific details such as interactions with attribution managed investment trusts (AMITs), tax consolidation, residency changes, and other issues.

Where appropriate, these details will be legislated following consultation."

There are no details of when they will be introduced, or what consultation process will apply.

We support the government's willingness to consider these issues and acknowledge the challenges involved in balancing fairness, integrity and policy objectives. However, given the significance of this issue for affected taxpayers, consultation on the design and operation of these measures should occur before legislation is introduced, enabling stakeholder feedback to be properly considered and incorporated into the policy development process.

In addition, CPA Australia has identified six explicit deferrals in the EM in addition to the open-ended catch-all at paragraph 1.222:

- Part-year residency — indexation (para 1.63)
- Part-year residency — deemed sale/reacquisition (para 1.119)
- Part-year residency — minimum tax (para 1.178)
- New residential dwelling instrument release (para 2.48)
- Unspecified CGT interaction areas (para 1.222)

Based on CPA Australia's technical analysis, there multiple unspecified future areas will need to be addressed. These are specifically listed below. These are in addition to the discretionary trust minimum tax Bill announced in the same Budget but are absent from this Bill.

Recommendation

The committee should seek from Treasury:

a) a complete list of all issues identified for second-tranche legislation;
b) a written timetable for introduction of second-tranche legislation, with a commitment that all measures taking effect from 1 July 2027 will be addressed in legislation introduced no later than 30 September 2026;
c) a commitment that all second-tranche legislation will be subject to an exposure draft consultation period of no less than 8 weeks before introduction; and

d) confirmation of the timeline for the proposed discretionary trust minimum tax legislation.

Issue 1 — Deceased estates: do the new negative gearing rules apply on ownership changes?

The negative gearing quarantine in section 26-155 applies to a residential dwelling if the taxpayer acquired their 'interest in the dwelling' after 7:30pm AEST on 12 May 2026. This raises a series of unresolved questions about what happens when ownership of an established property changes through mechanisms other than a conventional purchase.

Death and Division 128

Division 128 of the ITAA 1997 provides that a capital gain or capital loss from a CGT event that happens on death is disregarded, and the beneficiary acquires the asset with a cost base equal to the deceased's cost base (for post-CGT assets) or the market value at date of death (for pre-CGT assets and some other cases).

Where a deceased estate includes a residential investment property that was acquired by the deceased before Budget night, the question is whether the beneficiary's acquisition of the property from the estate triggers the section 26-155 quarantine. Two interpretations are possible:

- Interpretation 1 — the beneficiary acquires a 'new' interest in the dwelling after Budget night, triggering the quarantine for all future negative gearing on the property
- Interpretation 2 — the beneficiary steps into the deceased's position and is taken to have acquired the property at the same time as the deceased, which pre-dates Budget night and is grandfathered

The Bill does not contain an explicit provision resolving this question. Division 128's existing cost base rules do not address the section 26-155 acquisition date question. This is a significant gap affecting every estate that holds residential investment property, which CPA Australia believes to be a large population given the age concentration of property investors.

CPA Australia recommendation — Issue 1

The committee should ask Treasury to confirm:

a) whether the right of survivorship in a joint tenancy constitutes an 'acquisition' for section 26-155 purposes;
b) whether a beneficiary who acquires a residential investment property through a deceased estate is taken to have acquired the property at the same time as the deceased for section 26-155 purposes; and
c) whether transitional relief provisions are needed to address involuntary ownership changes through death, relationship breakdown, and operation of law.

Issue 2 — Companies with significant retained earnings: dividend strip and value shift risk at 1 July 2027

The 30 June 2027 deemed sale and reacquisition under section 112-155 resets the cost base of all assets held by resident individuals and trusts to market value at that date. For shareholders in private companies, this creates a specific and significant interaction with accumulated retained earnings.

The core problem

A private company with significant retained earnings (accumulated pre-July 2027 profits held as cash, investments, or other passive assets), will have a higher market value at 30 June 2027 than it would have had those earnings had been distributed. The shareholder's deemed cost base is reset to this higher, earnings-inclusive market value.

After 1 July 2027, if the company pays a dividend from pre-July 2027 accumulated earnings, the shareholder receives the dividend as assessable income under section 44 of the ITAA 1936. This reduces the company's net asset value and therefore reduces the value of the shares below the deemed cost base set at 30 June 2027. The shareholder now has a built-in capital loss on their shares, as the cost base exceeds the current market value.

The question is whether this situation gives rise to a dividend stripping concern under section 45A-45C of the ITAA 1936, or a value shifting adjustment under Division 725 of the ITAA 1997. If so, the ATO may deny the capital loss and treat the dividend differently, producing a worse tax outcome than either analysis in isolation would suggest.

The value shifting interaction

Division 725 of the ITAA 1997 adjusts the cost base of interests in an entity where a value shift has occurred, which is broadly where value has been shifted between interests in the same entity. Where pre-July 2027 retained earnings are paid out as a dividend after 30 June 2027, the shareholder's interest in the company decreases in value. The question is whether this constitutes a value shift that:

- requires an adjustment to the 30 June 2027 deemed cost base of the shares; and
- creates or reduces a corresponding deferred gain or loss that was fixed at 30 June 2027

The Bill does not address the interaction between the section 112-155 deemed cost base reset and Division 725. If value shifting adjustments apply, they could reduce the deemed cost base below its 30 June 2027 market value, producing a deferred gain that did not exist at the time of the reset. Conversely, if value shifting adjustments are not made, the taxpayer may have a capital loss that the ATO could challenge under the value shifting rules.

CPA Australia recommendation — Issue 2

The committee should ask Treasury to confirm:

a) whether the payment of pre-July 2027 accumulated dividends after 30 June 2027 gives rise to any dividend stripping or value shifting concern in the context of the new deemed cost base under section 112-155;
b) whether corresponding adjustments are available to the deferred gain or deferred loss where a value shift occurs after the 30 June 2027 reset date; and
c) whether ATO guidance or legislative amendment is needed before 1 July 2027 to give shareholders in private companies with significant retained earnings certainty about their position.

Issue 3 — CGT rollovers and the deferred gain mechanism

The structural problem

The deferred capital gain mechanism in section 112-160 operates by treating the taxpayer as having made a capital gain 'for the CGT event that happens under paragraph 112-155(2)(a)', being the deemed sale on 30 June 2027, in the income year of the later realisation event. This raises a fundamental question as to whether existing CGT rollover provisions interact correctly with the deferred gain.

Many CGT rollovers, such as the scrip-for-scrip rollover under Division 124, and the business to company rollover under Subdivision 122-A, operate by providing that a capital gain or capital loss from a CGT event 'is disregarded.' Section 112-160(3) provides that the deferred gain arises 'for the CGT event' of the deemed 30 June 2027 sale. But when a rollover later applies to the asset, the rollover provision disregards the capital gain 'from the event', not from a deemed prior event.

The question is whether a rollover that disregards the capital gain from the realisation event also disregards the deferred gain that arises in the same income year. The deferred gain is deemed to arise 'for' the 30 June 2027 deemed CGT event, not 'from' the later realisation event, meaning the rollover's disregard provision may not apply to it.

Section 122-10 — the business to company rollover

Section 122-10 provides that a capital gain or loss made by an individual from a CGT event happening when they dispose of an asset to a company in exchange for shares 'is disregarded.' Under the new regime, if the individual has a deferred gain that crystallises in the year of the disposal, the deferred gain arises 'for' the 30 June 2027 deemed event, not from the disposal to the company. The rollover's disregard may not extend to the deferred gain, leaving the individual with a taxable deferred gain even where the substantive disposal is fully rolled over.

Alternatively, the cost base referred to in section 122-45(3), which sets the cost base of the shares received, may be the deemed cost base under section 112-155(2), not the original cost base of the transferred asset. If so, the rolled-over shares could have an inflated cost base that does not reflect the economic position of the rollover.

Division 128 — death

Division 128 disregards a capital gain or loss from a CGT event that happens when a person dies. The deferred gain under section 112-160(3) arises 'for' the 30 June 2027 deemed event, not from the death event. If the taxpayer dies after 1 July 2027 but before the realisation event, the deferred gain crystallises on death, and Division 128's disregard may not apply to it because the deferred gain is not 'from' the CGT event that happens on death.

The question of what the beneficiary's cost base should be is also unclear. Division 128 sets the beneficiary's cost base by reference to the deceased's cost base, but the relevant cost base after 1 July 2027 is the deemed cost base under section 112-155(2)(b). There is no explicit provision in Division 128 or the new sections 112-155 to 112-180 confirming how these interact.

CPA Australia recommendation — Issue 3

The committee should seek confirmation from Treasury that:

a) the deferred capital gain mechanism in sections 112-160 to 112-180 interacts correctly with the full suite of CGT rollover provisions, including the business to company rollover (Subdivision 122-A), the scrip-for-scrip rollover (Division 124), and the small business restructure rollover (Subdivision 328-G);

b) the deferred gain that crystallises in the year of a rollover event is or is not covered by the rollover's disregard provision;
c) Division 128 applies to disregard the deferred gain where the taxpayer dies before the realisation event, and the beneficiary's cost base under Division 128 reflects the deemed cost base under section 112-155(2)(b); and
d) second-tranche legislation or ATO guidance will address these interactions before 1 July 2027.

Issue 4 — Tax consolidation interactions

The Bill does not address the interaction between the 30 June 2027 deemed disposal and reacquisition mechanism and the tax consolidation regime under Part 3-90 of the ITAA 1997. Two specific interactions are unresolved.

Asset cost setting rules — Division 705

When a subsidiary entity joins a consolidated group, Division 705 resets the cost base of the subsidiary's assets to their tax cost setting amount (TCSA). Section 705-57 provides specific rules for pre-CGT assets. The question is how the 30 June 2027 deemed disposal under section 112-175, which resets all pre-CGT assets to market value, interacts with Division 705's TCSA rules for pre-CGT assets that are held within a consolidated group or that enter a consolidated group after 1 July 2027.

Specifically, if a consolidated group holds a pre-CGT asset through a subsidiary, and the subsidiary undergoes a section 112-175 deemed disposal on 30 June 2027, does this affect the TCSA of that asset within the group? Further, where shares in the subsidiary are later sold, it is unclear how the deferred gain, which arises at the shareholder level, interacts with the consolidated group's allocable cost amount calculations.

Shares with deferred gains — rolled into consolidated groups

Tax consolidation is not listed as one of the purposes for which the section 112-155(2) deemed cost base is used, as reflected in the note to section 112-115(2). This may mean that the deemed cost base is not used for consolidation cost setting purposes, but it also means the position is uncertain. Where shares that carry a deferred gain are rolled into a consolidated group under the joining rules, the interaction between the deferred gain (which is a personal tax obligation of the individual) and the consolidated group's asset recognition regime is unaddressed.

CPA Australia recommendation — Issue 4

The committee should seek confirmation that Treasury will address the interaction between the section 112-155 deemed disposal mechanism and the tax consolidation regime, specifically the TCSA rules in Division 705 and the treatment of pre-CGT assets under section 705-57, through second-tranche legislation or ATO guidance before 1 July 2027.

Issue 5 — CGT Event E4: will indexation pass through a unit trust?

CGT Event E4 happens when a trustee of a unit trust makes a payment to a unitholder that results in the cost base of the units being reduced to nil, in which case the excess is a capital gain. The question is whether the cost base indexation that applies to CGT assets held by the trust under the new section

110-36(1A) constitutes a 'payment' that passes through to the unitholder's unit cost base, or whether the indexation uplift is captured at the trust level without flowing through to the unitholder.

If indexation does not pass through, that is, if the unitholder's cost base in the units does not benefit from the indexation applied to the underlying assets, then the total tax impost across the trust and unitholder levels may exceed the real economic gain. This may affect widely held unit trusts, agricultural investment funds, and property trusts where indexed cost bases at the asset level do not correspond to the cost bases of the units held by investors.

CPA Australia recommendation — Issue 5

The committee should seek confirmation from Treasury as to whether CPI indexation applied to CGT assets held by a unit trust under section 110-36(1A) passes through to adjust the cost base of units held by investors, and whether any amendment is needed to the CGT Event E4 rules to ensure the indexation benefit is not captured twice or lost between trust and unitholder levels.

Issue 6 — Employee share schemes: ESS start-up concession and nil cost base

The ESS start-up concession under section 83A-33 of the ITAA 1997 allows employees of start-up companies to receive shares or options with no upfront income tax liability, on the basis that the discount is instead subject to CGT on disposal. The shares or options have a cost base of nil (or nominal consideration paid).

Under the proposed CGT regime, a nil cost base means a nil indexed cost base. The full proceeds on disposal are therefore a capital gain with no indexation offset. This is inherently worse than the current 50 per cent discount, which would have reduced a nominal gain by half regardless of cost base.

The practical consequence for start-up employees may be significant. The ESS start-up concession was designed as an incentive for employees to accept equity in exchange for below-market salaries, with the expectation of more favourable CGT treatment rather than income tax treatment on disposal. Under the proposed regime, there is no 50 per cent discount, no indexation benefit (due to a nil cost base), and the 30 per cent minimum tax applies.

The government has committed to consulting on the treatment of small and start-up businesses, but the ESS start-up concession interaction is a specific and urgent issue that affects employees, not just founders, of start-up companies. The Bill and EM are silent on the ESS issue.

We recommend that, at a minimum, the 30 per cent minimum tax should not apply to gains on ESS interests where the nil cost base results from the specific operation of the start-up concession, rather than from a deliberate tax minimisation strategy.

CPA Australia recommendation — Issue 6

The committee should seek confirmation from the government that the ESS start-up concession interaction will be addressed in second-tranche legislation.

In addressing this issue, we recommend that, at a minimum, the government should not apply the 30 per cent minimum tax to gains on ESS interests where the nil cost base results from the specific operation of the start-up concession, rather than from a deliberate tax minimisation strategy.

Issue 7 — Capital loss ordering rules: why are deferred losses applied to pre-July 2027 gains first?

Step 1 of the revised section 102-5(1) method statement applies current year capital losses in a specific order: first to deferred non-residential capital gains, then to deferred residential capital gains, then to non-residential capital gains, then to residential capital gains. Step 2 applies carried forward net capital losses in the same order.

This ordering has a consequence that does not appear to have been considered or explained. It requires the pre-July 2027 component of deferred capital gains that attract the 50 per cent discount, to be reduced by capital losses before the post-July 2027 gains are considered. This outcome is unfavourable in many circumstances because:

- A capital loss applied against a deferred gain that attracts the 50 per cent discount effectively provides only 50 per cent of the loss's face value in tax benefit, the remaining 50 per cent of the deferred gain would have been exempt regardless
- By contrast, if the capital loss were applied against a current-period gain (no discount), the full face value of the loss is utilised.

There is no policy rationale for this ordering that is apparent from the EM. The 1985-1999 CGT regime allowed taxpayers to choose the order in which losses were applied. The Bill mandates an order that, in many cases, reduces the tax value of capital losses, particularly for taxpayers who have both deferred gains (subject to discount) and current-period gains (subject to minimum tax).

CPA Australia recommends that the ordering should either be reversed (current-period gains reduced first, maximising the value of losses against non-discounted gains) or made elective, allowing taxpayers to choose the order that produces the most equitable outcome in their specific circumstances.

CPA Australia recommendation — Issue 7

The committee should ask Treasury to explain the policy rationale for the mandatory ordering of capital loss application in steps 1 and 2 of section 102-5(1), and specifically why capital losses must be applied against deferred (discounted) gains before current-period gains.

If no policy rationale exists for the current ordering, the committee should recommend that the ordering be made elective, or that losses be applied against current-period non-discounted gains first to maximise their tax value.

Issue 8 — Personal use assets

Personal use assets under Division 108 of the ITAA 1997 are treated as a separate category of CGT asset. Under section 108-20(1), a capital loss from a CGT event on a personal use asset is entirely disregarded.

By splitting the holding period into a pre-July 2027 deemed disposal and a post-July 2027 actual disposal, a gain and a loss from the same asset can now arise at different times, with the loss permanently disregarded while the gain remains assessable. Two scenarios illustrate this:

Scenario A: Asset acquired for $50,000, worth $30,000 at 30 June 2027 (deemed loss of $20,000, disregarded), sold post-2027 for $55,000. Assessable gain: $25,000. Net economic gain: $5,000. Tax is paid on $20,000 more than the actual gain.

Scenario B: Asset acquired for $30,000, worth $80,000 at 30 June 2027 (deferred gain of $50,000), sold post-2027 for $60,000 (post-2027 loss of $20,000, disregarded). Assessable deferred gain: $50,000. Net economic gain: $30,000. Tax is paid on $20,000 more than the actual gain.

CPA Australia recommendation — Issue 8

The committee should ask Treasury to confirm whether the interaction between the section 112-175 deemed disposal and pre-CGT personal use asset rules have been considered, and whether any amendment is needed to prevent unintended outcomes.

Issue 9 — Pre-sale dividends and section 118-20: a worse outcome under the new regime

This is one of the most significant interaction issues identified in CPA Australia's analysis and one that will affect a large number of private company shareholders. It concerns the interaction between pre-sale dividends, the ATO's position in Tax Ruling 2010/4 (TR 2010/4), section 118-20 of the ITAA 1997, and the new deferred capital gain mechanism.

The current law position

TR 2010/4 provides that where a shareholder receives a pre-sale dividend as part of the sale of shares in a company, the ATO treats the dividend as forming part of the capital proceeds for CGT purposes. This prevents a taxpayer from converting what is economically part of the purchase price

into a dividend, which would otherwise be taxable as ordinary income but could shelter a corresponding portion of the capital gain.

Under the current law, section 118-20 operates as an anti-overlap provision: it reduces a capital gain by the amount of any dividend that has been included in the capital proceeds under TR 2010/4. This means the taxpayer is not taxed twice on the same economic gain. In the example below, section 118-20 reduces the discounted capital gain to nil, and only the dividend itself is taxable as income.

The new law interaction — a worked example

The following example illustrates how the new regime changes this outcome materially for a post-CGT shareholder who acquired shares before 1 July 2027:

	Current law (50% discount)	New law (deferred gain + indexation)
Share acquisition date	January 2015	January 2015
Cost base	$2,000,000	$2,000,000
Market value (MV) at 30 June 2027 (deemed cost base reset)	N/A	$4,000,000
Pre-sale dividend paid (from accumulated earnings)	$2,000,000 (taxable as income)	$2,000,000 (taxable as income)
Cash sale proceeds (after dividend extracted)	$2,000,000	$2,000,000
CGT proceeds (per TR 2010/4 — dividend added back)	$4,000,000	$4,000,000
Deferred gain (pre-July 2027 component)	N/A	$2,000,000 ($4m − $2m cost)
Current period gain (post-July 2027)	N/A	$4,000,000 proceeds − $4,100,000 indexed cost base = nil
Gross capital gain before discount and s.118-20	$2,000,000	$2,000,000 (deferred only)

s.118-20 reduction (dividend of $2,000,000)	Reduces $2,000,000 to nil	Reduces current period gain (nil) — cannot reduce below nil
Net assessable capital gain	Nil	$1,000,000 (after 50% discount)
Total tax base (dividend + capital gain)	$2,000,000 (dividend only)	$2,000,000 (dividend) + $1,000,000 (deferred gain)
Additional taxable gain from new regime		$1,000,000

Why the new regime produces a worse outcome

Under the current law, section 118-20 eliminates the discounted capital gain entirely, as the dividend and the sale price are different parts of the same economic transaction, and the anti-overlap provision ensures the taxpayer is not taxed twice. The only taxable amount is the $2 million dividend.

Under the new regime, the deferred gain of $1 million (the pre-July 2027 component after the 50 per cent discount) crystallises in the year of sale. Section 118-20 applies to reduce the current-period gain, however the current-period gain is nil (because the indexed cost base slightly exceeds the proceeds). Section 118-20 can reduce a gain to zero but cannot create a capital loss. It therefore provides no relief against the deferred gain, which remains fully assessable.

The practical consequence is a shareholder who sells shares using a pre-sale dividend structure faces an additional $1 million of assessable capital gain under the new regime compared to the current law, arising from the deferred gain that section 118-20 cannot reach. This is not the result of any deliberate tax avoidance by the shareholder. It is a structural consequence of the deferred gain mechanism interacting with the TR 2010/4 deemed proceeds rule and the section 118-20 limitation.

CPA Australia recommendation — Issue 9

The committee should ask Treasury to:

a) confirm whether the interaction between the deferred gain mechanism in section 112-160 and section 118-20 of the ITAA 1997 has been considered and modelled;
b) explain why section 118-20 is not amended to allow the deferred gain to be reduced by amounts included in capital proceeds under TR 2010/4, consistent with the policy intent of the anti-overlap provision; and
c) consider whether the deemed cost base reset at 30 June 2027 should be adjusted to exclude amounts that represent accumulated retained earnings that are subsequently paid as pre-sale dividends, to prevent the double-counting that the new regime creates.

Appendix F: CPA Australia's compliance cost estimate

Overview

Treasury's Explanatory Memorandum estimates that Schedules 1 and 2 of the Bill will increase average regulatory costs by $88.4 million per year over ten years, while Schedule 4 (the standard deduction) will save $380 million per year in compliance costs. CPA Australia estimates the taxpayer compliance cost because of these new measures is expected to exceed the $88.4 million estimate.

This appendix sets out CPA Australia's bottom-up estimate, built from:

- the ATO's 2022-23 Taxation Statistics;
- the ATO's Tax Time Lodgement Statistics as at February 2026;
- market data on tax agent fees and property valuation costs; and
- time-cost estimates based on CPA Australia member survey data.

All figures are in 2026 AUD dollars. Where population figures are estimates based on professional inference rather than direct ATO data, this is disclosed explicitly below.

CPA Australia recommends that Treasury publish its own disaggregated compliance cost estimate**.** The imprecision in some figures below is itself evidence that such an estimate is needed.

We seek to engage with Treasury to better understand the basis for its calculation of regulatory costs under Schedules 1 and 2. Such engagement would facilitate a clear and shared understanding of the underlying assumptions and methodologies, and could lead to a more accurate estimate of the compliance costs borne by taxpayers and tax professionals.

Summary of compliance cost estimates

This summary table is presented first for ease of reference. Supporting analysis for each component follows below.

Schedule / component	CPA Australia estimate	Status
One-off transitional: 30 June 2027 market valuation obligation (Schedules 1 and 2)	At least $675m–$825m ONE-OFF (2026–28)	Treasury should disclose
Ongoing: Negative gearing quarantine tracking (Schedule 2)	$11.7m–$21m p.a. (2027-28); growing over time	CPA Australia estimate
Ongoing: CGT split-gain calculation (Schedule 1)	$210m–$409m p.a.	CPA Australia estimate
Ongoing: Minimum tax calculation (Schedule 1)	$74m–$112m p.a.	CPA Australia estimate

Total ongoing annual compliance cost increase (Schedules 1 and 2)	$295.7m–$542m p.a.	
Total one-off transitional cost (2026–28)	At least $675m–$825m	

Note on time decay: Treasury may argue that as pre-1 July 2027 assets progressively wash through the system, the annual ongoing compliance costs will begin to decline over time, particularly for the CGT split-gain calculation (Component 3 above), which applies only to assets acquired before 1 July 2027 and sold thereafter. This observation is valid in principle: as the stock of transitional assets diminishes, the split-gain calculation burden reduces accordingly. CPA Australia accepts this point but notes that:

a) the time-decay effect is unlikely to be material within the ten-year period covered by Treasury's own $88.4 million estimate;
b) the negative gearing quarantine tracking cost (Component 2 above) grows over time rather than decays, as more post-Budget-night properties enter the rental market; and
c) the one-off transitional valuation burden ($675m to $825m) falls entirely in 2026–28 regardless of decay effects.

The figures in this table should be read as peak steady-state estimates applicable to approximately 2029–30; a full time-discounted analysis would require average holding period data not available in public ATO statistics.

Baseline: Who uses a tax agent?

The starting point for any compliance cost estimate is understanding how taxpayers currently interact with the system and how the new legislation changes that interaction.

The ATO's Tax Time Lodgement Statistics as at 28 May 2026 show that of 15.5 million individual tax return lodgments for the 2024-25 income year, of these:

- over 9.1 million (approximately 59 per cent) were lodged by tax agents
- over 6.2 million (approximately 40 per cent) were lodged by self-preparers via myTax
- 109,000 (under 1 per cent) were push returns.

Drawing on our knowledge of prior year lodgement data, it is expected that by the end of the June 2026, the proportion of individual tax returns lodged through tax agents will exceed 60 per cent. This reflects that most returns lodged from due date of self-prepared returns (31 October) through to the end of the income year are submitted via tax agents.

Tax agent use is highly concentrated among taxpayers with complex affairs. The ATO does not publish a breakdown of lodgement channel by taxpayer type in its headline statistics, so a precise tax agent use rate for property investors cannot be directly sourced. However, it is our experience that the overall tax agent lodgement rate significantly understates the rate for investors with rental properties, capital gains, and business income, given the substantially greater complexity of their returns. CPA Australia's professional assessment is that tax agent use among property investors is materially above the overall average, likely in the range of 75 to 85 per cent. The Committee should note this is our estimate; the ATO holds the underlying return-level data and should publish the actual rate as part of any revised compliance cost estimate.

For the purposes of this estimate, CPA Australia uses the following lodgement rate assumptions by taxpayer cohort:

Taxpayer cohort	Estimated population (2022-23 ATO data)	Tax agent use rate	Approx. number using tax agent
All individual lodgments	16.1 million	59% (ATO April 2026 — but will be higher	9.4 million plus
Rental property investors (all)	2.26 million (ATO Table 8)	~75-85% (CPA Australia professional estimate — no direct ATO source)	~1.7-1.9 million
Negatively geared investors	1.12 million (ATO Table 8)	~75-85% (same basis)	~840,000-950,000
Individuals with capital gains	~830,000 (Treasury TEIS 2025-26, 2022-23 data)	~75-85% (same basis)	~620,000-705,000

Component 1: The 30 June 2027 market valuation obligation

The single largest compliance cost in the entire package is the requirement to establish market value at 30 June 2027 for every CGT asset held on that date. This is a one-off transitional cost but it is significant in aggregate.

The ATO's Taxation Statistics 2022-23 (Chart 17) provides a directly sourced breakdown of individual capital gains by asset class for the 2022-23 income year. Total capital gains made by individuals in 2022-23 were $84 billion, broken down as follows:

Asset class	Share of individual gains (2022-23)	Dollar value of gains (2022-23)	Source
Real estate (Australian)	38.3%	$32.3 billion	ATO Chart 17
Trusts and managed funds	35.6%	$29.9 billion	ATO Chart 17
Listed and unlisted shares in companies	18.0%	$15.1 billion	ATO Chart 17
Other CGT assets	~8.1%	~$6.8 billion	ATO Chart 17

TOTAL — individuals	**100%**	**$84.0 billion**	**ATO Taxation Statistics 2022-23**

This asset class breakdown is directly sourced and important for two reasons. First, it confirms that real estate alone accounts for over 38 per cent of all individual capital gains, the single largest category. Second, it confirms that trusts and managed funds (35.6 per cent) and shares (18 per cent) together account for a further 53.6 per cent of gains. The significant share attributable to trusts and managed funds reflects the attribution of trust capital gains to individual beneficiaries, meaning the valuation obligation flows through to individuals even where the asset is held in a trust structure.

Importantly, the ATO asset class data records the dollar value of gains, not the number of distinct taxpayers by asset class. A small number of large transactions can dominate dollar totals. The number of taxpayers requiring 30 June 2027 valuations is therefore a separate question that the ATO's published data does not directly answer. The affected population includes every individual and trust that holds a CGT asset on 30 June 2027 and may sell it after that date. The directly sourced population figures show there are:

- 2.26 million individuals with a rental property interest (ATO Taxation Statistics 2022-23, Table 8). Note: not all will require a formal valuation; only those who hold pre-2027 properties and sell after 1 July 2027. The true subset is unknown but we expect it to be a significant fraction of the 2.26 million total.
- Approximately 830,000 individuals who used the CGT discount in 2022-23 (Treasury Tax Expenditures and Insights Statement 2025-26, p.19;). Of the 1.1 million individuals who realised a net capital gain in 2022-23, 71 per cent used the discount. A large proportion of these hold listed shares or managed funds where market values are publicly available and costless. The sub-population holding unlisted assets requiring formal valuation is not published by the ATO.
- Approximately 900,000 trusts (ATO trust lodgement statistics —entity count; the proportion holding assets requiring formal valuation is not published / not known).
- An additional population of individuals with other CGT assets (business goodwill, collectibles, vacant land) — not separately quantified in ATO public data.

For listed shares and managed funds, the 30 June 2027 valuation will be determined by the market price at the end of that day, which is publicly available.

For unlisted assets, such as private company shares, real property, business goodwill, collectibles, a formal valuation is required. CPA Australia sets out estimated costs by asset class below. Population figures for non-property asset classes are professional estimates as the ATO does not publish a breakdown of CGT taxpayers by asset class. These estimates should be read as indicative rather than precise counts.

Asset class	Annual gains (ATO 2022-23)	Estimated taxpayers requiring valuation based on ATO Taxation Statistics 2022-23 (CPA Australia est. unless noted)	Average valuation cost	Total one-off transitional cost (est.)
Residential investment property	$32.3bn (38.3% of $84bn — ATO Chart 17)	~1.5 million (subset of 2.26m ATO Table 8; selling subset is est.) [Note 1]	$450 (desktop) to $550 (formal)	$675m - $825m
Trusts / managed funds (gains attributed to individuals)	$29.9bn (35.6% — ATO Chart 17). Note: listed fund valuations are costless; cost arises for non-listed trust assets only	Not separately quantifiable from ATO public data	Varies — listed: nil; unlisted: $800-$3,000	Not separately estimated
Listed and unlisted shares (combined — ATO does not separate)	$15.1bn (18.0% — ATO Chart 17). Unlisted share subset requiring formal valuation is not published by ATO	Not separately quantifiable from public data	$1,500 - $3,000 (unlisted only)	Not separately estimated
Business goodwill and intangibles	Included within shares/other above — not separately quantified	Not quantifiable from public data. [Note 2]	$800 - $2,000	Not separately estimated
Other (collectibles, land, foreign assets)	~$6.8bn residual (ATO Chart 17)	Not quantifiable from public data.	$300 - $600	Not separately estimated
TOTAL — indicative; see note	$84.0bn total individual gains (ATO directly sourced)			**At least $675m - $825m**

Note on data sources and methodology

The 'annual gains at stake' column is directly sourced from ATO Taxation Statistics 2022-23, Chart 17 (source of current year CGT by asset class). The dollar values represent gains in 2022-23 — the most recent available year — and are used to illustrate the scale of the asset classes affected, not to estimate the number of valuations required. The taxpayer population figures in the third column are CPA Australia estimates where noted, based on ATO Table 8 (property) and professional judgment (other classes). The ATO does not publish a breakdown of CGT taxpayers by asset class; the dollar value of gains and the number of distinct taxpayers are separate questions, and a small number of large transactions can dominate dollar totals. CPA Australia recommends Treasury be required to publish both a taxpayer count and a disaggregated compliance cost estimate by asset class as part of Recommendation 12.

Note 1: **Residential property valuation population**: Of the 2.26 million individuals with a rental property interest in 2022-23 (ATO Table 8), a significant but unquantifiable subset will hold established properties through the 30 June 2027 transition date and sell thereafter, triggering the valuation obligation. The ATO does not publish data on the forward-looking holding intentions of property investors. CPA Australia estimates the cost of a residential property valuation at $450–$550 per property. If only 20% of the current rental property investor population faces this obligation, the aggregate cost would be approximately $200–$250 million. If 50% do, the cost approaches $500–$620 million. Treasury/ATO holds the data to model this distribution and should be required to publish its estimate.

Note 2: Business goodwill valuation population: The ABS records 2,729,648 actively trading businesses at 30 June 2025. The number of owners holding goodwill as a personal CGT asset who acquired their business before 1 July 2027 and will sell after that date is unknown; it depends on business structure, tenure, and realisation intentions not captured in any published dataset. At $800–$2,000 per valuation, the aggregate cost is material but cannot be estimated without data held by Treasury/ATO.

Note 3: The ATO data used in these calculations includes only taxpayers who realised capital gains in the 2022-23 income year. It excludes taxpayers who held CGT assets but did not dispose of them in that year, those who incurred a capital loss and those holding pre-CGT assets. As a result, the compliance cost estimate above is understated, with the actual number of taxpayers requiring a valuation likely to be materially higher than estimated.

On CPA Australia's conservative indicative estimate, the total transitional valuation cost — falling predominantly in 2026-27 and 2027-28 — is at least $675m - $825m. This is significantly different to Treasury's regulatory cost estimate and represents a material compliance burden on millions of Australians that has not been disclosed in the EM's impact assessment.

Response to the argument that the apportionment method instrument will reduce compliance costs

The Bill provides, at section 112-185, that the Minister may determine an apportionment method by legislative instrument as an alternative to formal market valuation at 30 June 2027. The Explanatory Memorandum at paragraph 1.123 explicitly states this method 'may be simpler than calculating market value.' Treasury may argue that the compliance cost estimates above are overstated because, once the instrument is released, most taxpayers will use the simpler method and the valuation costs will not materialise.

CPA Australia acknowledges that a well-designed, asset-class-specific apportionment method instrument could materially reduce the transitional valuation burden — particularly for residential property where time-apportionment is technically feasible. However, five reasons explain why this argument does not resolve the compliance cost concern as at the date of this submission:

Reason	The argument	CPA Australia's response
1. The instrument does not exist	A simpler method will be available	A single instrument cannot necessarily provide a workable simplified method for all asset classes simultaneously. Residential property is amenable to time-apportionment. Business goodwill is not. Goodwill value depends on future earnings expectations at the valuation date, not a linear function of time. Private company share values depend on complex factors that cannot be simplified to a mechanical formula. Taxpayers holding illiquid, hard to value or volatile assets will face compliance costs in establishing market values. The instrument may solve the property problem while leaving the most expensive valuation cases (unlisted companies, goodwill and collectables) unresolved.
2. The instrument may not cover all asset classes	One instrument solves the problem	A single instrument cannot necessarily provide a workable simplified method for all asset classes simultaneously. Residential property is amenable to time-apportionment. Business goodwill is not — goodwill value depends on future earnings expectations at the valuation date, not a linear function of time. Private company share values depend on complex factors that cannot be simplified to a mechanical formula. The instrument may solve the property problem while leaving the most expensive valuation cases (unlisted companies, goodwill) unresolved.
3. Time-apportionment is not value-neutral — it produces winners and losers	The simpler method is equivalent to market value	Time-apportionment allocates the total gain between pre- and post-2027 periods proportionally to the number of days held. Asset prices do not increase linearly over time. A taxpayer who purchased in 2015 experienced most of their real appreciation before the COVID-era price surge (2020–2022); time-apportionment would over-attribute gains to the post-2027 period relative to the actual market value split. The reverse applies for taxpayers who purchased near the 2022 peak. Time-apportionment is a simplification that redistributes the tax burden relative to the true market value split — it is not a neutral simplification.
4. Indexation interaction is unresolved	The simplified method is complete	Under the default market value method, CPI indexation under s.960-275(1B) applies to the market value at 30 June 2027 as the reset cost base. Under a time-apportionment method, the 'deemed cost base' is a mathematical construct, not an independently established market value. The interaction between this constructed cost base and the CPI indexation rules is not addressed anywhere in the Bill or EM. Until the instrument is released and addresses this interaction, the time-apportionment method may produce indexation outcomes that are incorrect or inconsistent.
5. Taxpayers will undertake both valuation methods to determine	The taxpayer will choose the simplest valuation method	Given the potential capital gains tax payable, taxpayers are likely to apply both methods and adopt the valuation that produces the most favourable outcome. If the apportionment method yields results that are comparable to, or more favourable than, formal market valuations, reliance on formal valuations is likely to diminish.

which is best for them		

What the apportionment method argument supports

Rather than undermining the compliance cost analysis, the availability of section 112-185 CPA CPA Australia recommends the following:

- The draft apportionment method instrument must be released for public consultation no later than 1 October 2026, well ahead of the 1 July 2027 operative date, covering all major asset classes.
- ATO-approved simplified valuation methodologies must be released for common asset classes no later than 1 March 2027.
- The instrument must separately address the interaction between the time-apportionment method and the CPI indexation rules under s.960-275(1B). Without this, taxpayers using the simplified method cannot correctly calculate their indexed cost base.

Component 2: Ongoing annual compliance costs — negative gearing quarantining

From 1 July 2027, investors with post-Budget-night established properties must separately track quarantined amounts year on year, ensure they are correctly applied against residential property income and capital gains in the right order, and carry forward unused amounts. This is a new annual compliance task with no equivalent in the current system.

CPA Australia estimates the affected population at approximately 100,000-120,000 investors in the first full year (2027-28), growing as more properties acquired after Budget night enter the rental market. The additional tax agent time per investor per year is estimated at 30-60 minutes at typical tax agent hourly rates of $200-$350 per hour.

Note on ABS investor loan data: The ABS Lending Indicators (March quarter 2026) record approximately 57,342 new investor loan commitments per quarter (~19,000 per month). Over the approximately 13.5 months from Budget night to 30 June 2027, this implies roughly 257,000–285,000 new investor loan commitments. After excluding new builds (~15–20%) and non-negatively geared investors (~50%), CPA Australia estimates 100,000–120,000 new negatively geared established property investors in the first year. This figure grows each subsequent year.

Component	Population (2027-28)	Additional cost per taxpayer p.a.	Annual compliance cost
Tax agent additional time for quarantine tracking and application	~100,000 investors	$100 - $175 (30-45 min at $200-$350/hr)	$10m - $17.5m
Self-preparer additional time (DIY tracking, spreadsheets, record-keeping)	~35,000 investors	$50 - $100 (1-2 hours opportunity cost)	$1.7m - $3.5m

TOTAL annual negative gearing compliance cost increase (2027-28)			$11.7m - $21m

This grows over time as the stock of post-Budget night established properties increases.

Component 3: Ongoing annual compliance costs — CGT transitional gain splitting

For taxpayers who hold assets acquired before 1 July 2027 and sell after that date, every disposal requires a two-regime calculation: the deferred gain (old rules, 50% discount) and the current-period gain (new rules, indexation and possibly minimum tax). This is materially more complex than the current single-calculation regime.

The ATO recorded 1.13 million individuals reporting capital gains in 2022-23, with an average gain of $33,450. The additional complexity of the split-gain calculation is estimated to add 45-90 minutes of tax agent time per capital gain event for assets spanning the 1 July 2027 transition date. At a weighted average tax agent rate of $280 per hour:

Component	Population (annual est.)	Additional cost per event	Annual compliance cost
Split-gain calculation for pre-2027 assets (tax agent time)	~800,000 disposal events p.a.	$210 - $420 (45-90 min at $280/hr)	$168m - $336m
Self-preparers needing to upgrade to tax agent for first time due to complexity	~50,000 p.a.	$250 (agent fee uplift from free myTax)	$12.5m
Trust beneficiary statement preparation (s.115-235)	~200,000 trusts p.a.	$150 - $300 (agent preparation)	$30m - $60m
TOTAL annual CGT split-gain compliance cost			$210m - $409m

Note on time decay: Treasury may argue that this cost declines over time as pre-2027 assets are progressively disposed of. CPA Australia accepts this in principle but notes that: (a) with average residential property holding periods of 10-12 years, the 800,000 annual disposal estimate may persist for a decade or more; and (b) the trust beneficiary statement preparation cost (s.115-235) does not decay — it applies to all trust capital gains regardless of when the underlying asset was acquired.

Component 4: Ongoing annual compliance costs — minimum tax calculation

The Division 119 minimum tax calculation is a seven-step method statement that requires the taxpayer's basic income tax liability to be computed with and without the minimum tax capital gain, and the difference compared to 30 per cent of the gain. For taxpayers whose marginal rate already exceeds 30 per cent, the minimum tax produces no additional liability — but the calculation must still be performed to confirm this. CPA Australia estimates that the additional tax agent time for the minimum tax calculation (including the determination of whether any income support exemption

applies) is 20-30 minutes per taxpayer per year, for the estimated 700,000-900,000 taxpayers with post-July 2027 capital gains subject to the minimum tax base.

Component	Population (annual)	Additional cost per taxpayer	Annual compliance cost
Minimum tax calculation (including exemption determination)	~800,000 taxpayers p.a.	$93 - $140 (20-30 min at $280/hr)	$74m - $112m

The tax agent multiplier effect

A further dimension Treasury's estimate does not capture is the indirect cost borne by the profession. Australia's 74,000 registered tax agents will need to invest in:

1. Software upgrades to support the new CGT categories, quarantine tracking, minimum tax calculations, and split-gain workflows — estimated industry cost $150-300 million in 2026-27
2. Staff training on the new regime — estimated 8-16 hours per tax agent at a cost of $300-600 million in professional time across the sector
3. Client communication about new obligations — estimated 30-60 minutes per affected client at a professional cost of $140-280 per client across approximately 3 million affected clients ($420 million - $840 million one-off)

These costs will, in the normal course of market operations, be passed through to clients as fee increases. The compliance cost therefore falls ultimately on taxpayers, even if it is initially borne by practitioners.

Comparison with Treasury's estimate and recommended action

CPA Australia's estimate is summarised against Treasury's in the table above. The core conclusions are:

1. The one-off transitional valuation cost (CPA Australia indicative estimate: $675m-825m) is material and has not been disclosed in Treasury's analysis. The ATO does not publish a breakdown of CGT taxpayers by asset class; Treasury should be required to produce its own disaggregated estimate.
2. The ongoing annual compliance cost ($295.7-542 million per year) is three to five times Treasury's total CGT/negative gearing compliance cost figure. This is primarily a consequence of the two-regime calculation required for every disposal of a pre-2027 asset, a minimum tax calculation, negative gearing tracking — a structural feature of the Bill that cannot be avoided without a simpler transitional mechanism.

Recommendation— Compliance cost transparency

CPA Australia recommends that:
(a) Treasury be required to publish a revised and disaggregated compliance cost estimate that separately discloses the one-off transitional valuation burden, the ongoing CGT split-gain calculation cost, and the ongoing negative gearing quarantine tracking cost;
(b) the Impact Analysis be updated to reflect these additional costs before the Bill proceeds to a third reading; and
(c) Treasury commit to releasing ATO-approved simplified valuation methodologies for common asset classes (particularly residential property) no later than 1 March 2027, to reduce the transitional valuation burden on taxpayers without the resources to commission formal valuations.

Appendix G - The case for a statutory independent review

Given the acknowledged incompleteness of this Bill — the nine unwritten ministerial instruments, the issues deferred to future tranches, and the multiple unresolved technical interactions identified in this submission, CPA Australia submits that a statutory independent review is not merely desirable but essential.

The Bill's operative date for the CGT changes is 1 July 2027. The first full income year in which the new regime will operate is 2027-28, with the first returns lodged in calendar year 2028. A review commencing no later than 1 July 2029 would be the earliest point at which real-world operational experience of the regime is available — after practitioners have lodged the first cohort of returns under the new system, after the ATO has processed those returns, and after the compliance costs and technical difficulties have crystallised into observable data.

This is the right moment for an independent review. Parliament would be able to assess whether the provisions including nine ministerial instruments have operated as intended, whether the compliance cost burden matches Treasury's estimates, whether the minimum tax has affected the taxpayer populations it was designed to target or those it was not, and whether the deferred second-tranche legislation has been introduced on the committed timeline.

Proposed statutory review clause

Statutory review clauses are a standard feature of Commonwealth legislation where reforms are novel, significant, or may have unintended consequences. CPA Australia proposes the following clause be inserted as a new Schedule 5 to the Bill, modelled on statutory review provisions in other Commonwealth tax legislation (like the thin capitalisation provisions):

Proposed Schedule 5 — Review of operation of amendments	
s.1 — Review required	The Minister must cause an independent review to be conducted of the operation of the amendments made by Schedules 1, 2, 3, and 4 to this Act.
s.2 — Public consultation	The review must make provision for public consultation, including by inviting written submissions from registered tax agents, professional accounting bodies, and affected taxpayer groups.
s.3 — Commencement	The review must commence no later than 1 July 2029, being approximately one year after the operative date of the CGT and negative gearing amendments.
s.4 — Report	The persons who conduct the review must give the Minister a written report of the review within 17 months of the commencement of the review.

s.5 — Tabling	The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.
s.6 — Suggested review scope	The review must address: (a) Whether the stated policy objectives of the amendments have been achieved — specifically whether the CGT and negative gearing reforms have contributed to improved housing affordability and supply outcomes; whether the 30% minimum tax has reduced strategic deferral of capital gains to low-income years; (b) whether compliance costs accord with Treasury's regulatory impact estimates; (b) whether the Bill including nine legislative instruments have operated consistently with policy intent; (c) whether any amendments are required to address unintended consequences identified in practice.

Contact

Jenny Wong, Tax Policy Lead, CPA Australia
jenny.wong@cpaaustralia.com.au