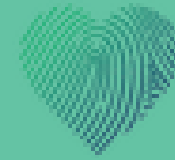




Bequest Assist



**INCLUDE
A CHARITY**

Understanding Capital Gains Tax



Disclaimer

This presentation contains general advice only. The advice contained within should not be relied upon without seeking professional advice pertaining to your unique circumstances.



Capital Gains Tax = the tax you pay on profits from disposing of assets including property and shares.

Part of income tax. Not a separate tax.



**Why does
understanding CGT
matter for estate
administrators?**

ESTATE ASSETS

Liabilities of the
deceased

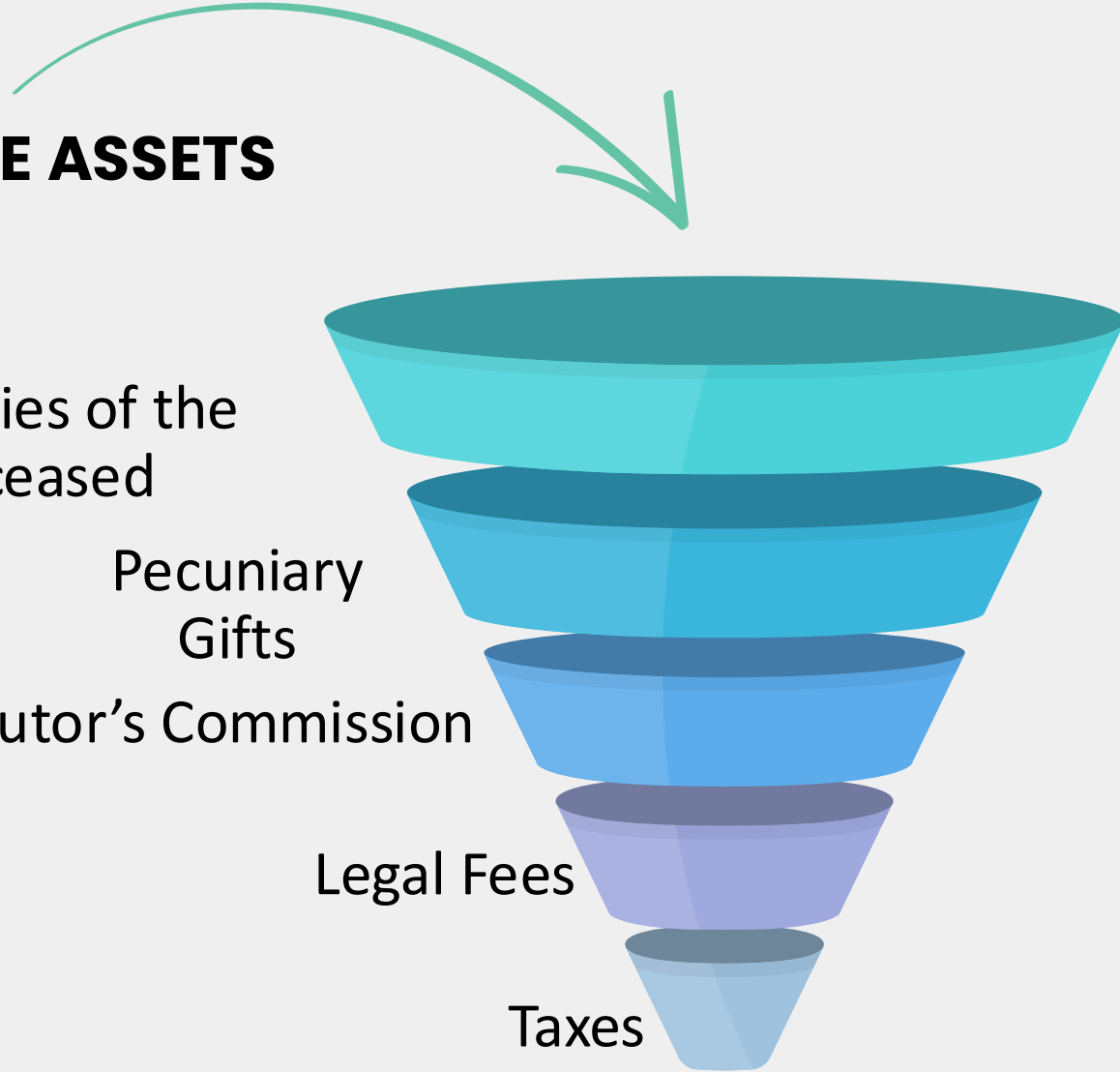
Pecuniary
Gifts

Executor's Commission

Legal Fees

Taxes

RESIDUARY GIFTS

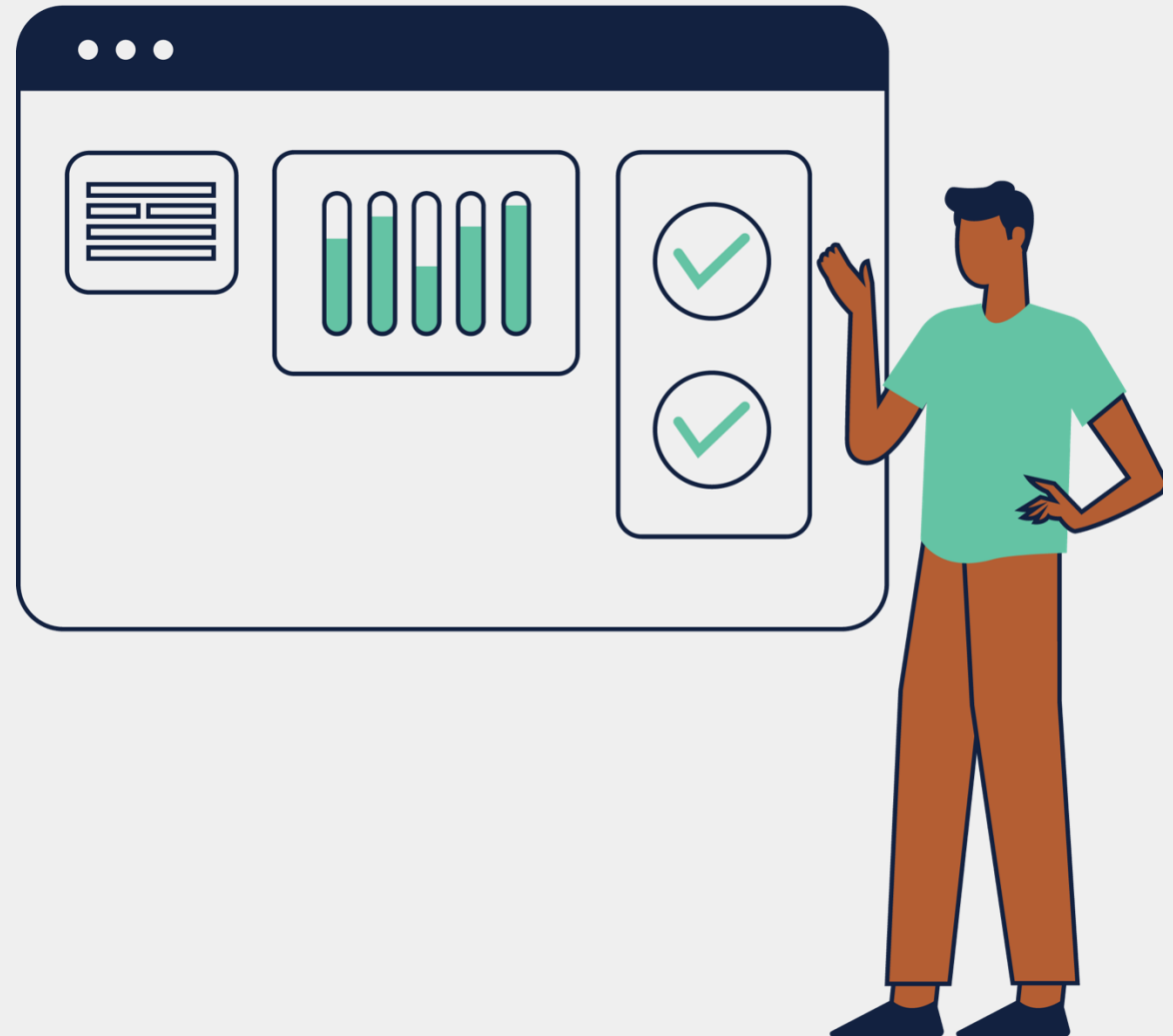


Estate assets

- 48% had shares
- 65% had real estate
- 4% had more than one piece of real estate



How much do charities lose as a result of incorrectly paid CGT?





1. Holiday home sold, \$199,000 in incorrect CGT paid
2. \$3.7 million in shares sold too early, \$350,000 in incorrect CGT paid
3. \$2.3 million in shares sold, \$311,000 in incorrect CGT paid

But won't the estate
solicitor/accountant handle this?

- Tax exempt and DGR status of charities impact this
- Solicitors and accountants often not aware
- Benefits all beneficiaries when they get it right



How will I know if CGT might be an issue in the estate?

1. Shares

2. Non-primary residence properties

3. Primary residence not sold within 2 years of date of death

Property owned solely by deceased	
Description	Estimated or known value
Money in bank	
National Australia Bank	
Retirement Account Number [REDACTED]	
Interest accrued	\$68,178.06
Pass Book Account Number [REDACTED]	
Interest accrued	\$38.37
Pass Book Account Number [REDACTED]	
Interest accrued	\$46,658.34
Pass Book Account Number [REDACTED]	
Interest accrued	\$13.23
St George	
Retirement Access Cheque Account Number [REDACTED]	
Interest accrued	\$3,070,003.93
Term Deposit Account Number [REDACTED]	
Interest accrued	\$2,820.39
Total Money in bank	\$34,637.39
Clothing	\$0.58
Quantity of clothing	\$2,329,922.88
	\$6,322.28
	\$5,558,595.45
Shares in Public Companies	
AGL Energy	NCV
30,466 ord shares @ \$19.84	
APA Group	\$604,445.44
5,295 ord shares @ \$11.43	
Alumina Limited	\$60,521.85
274 ord shares @ \$2.12	
AMCOR	\$580.88
6,433 ord shares @ \$15.83	
	\$101,834.39



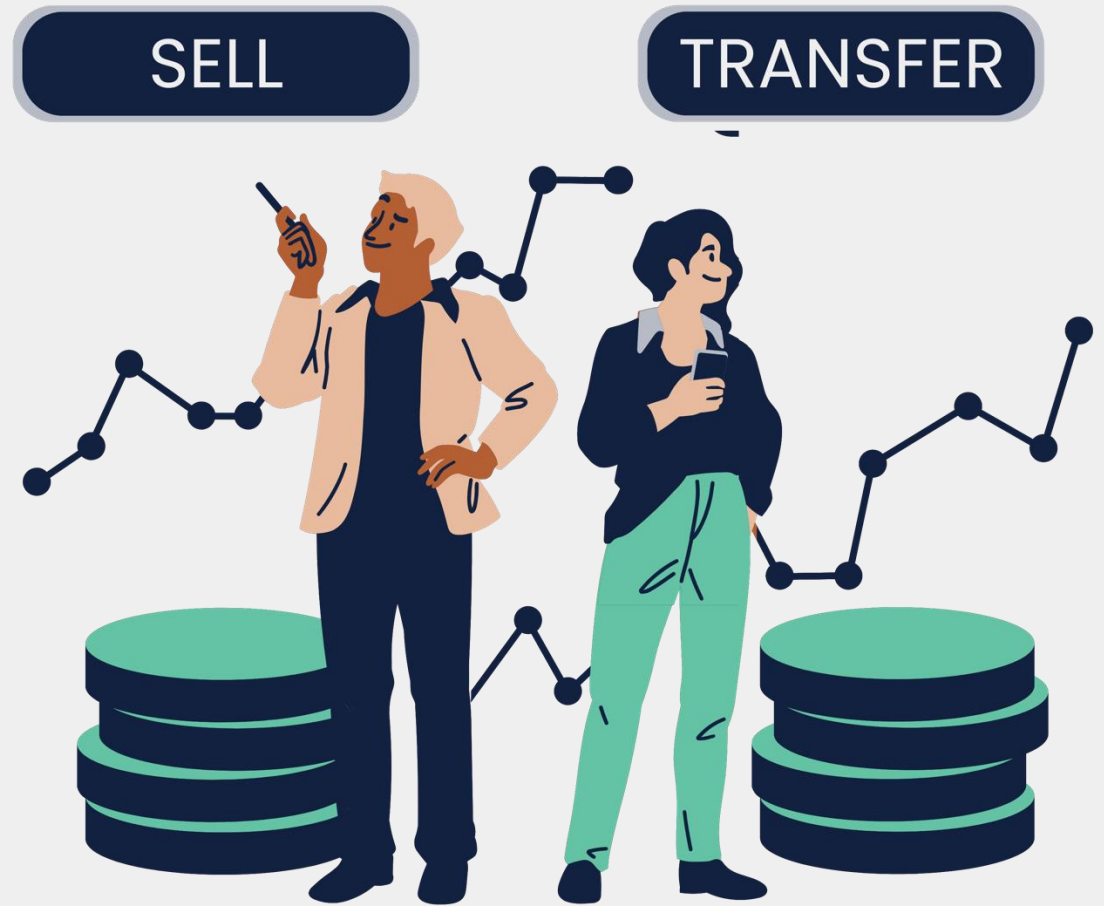
How can the CGT be avoided?

1. Take an 'in specie' share transfer
2. Executor makes the charities presently or specifically entitled to the income



Share transfers

- You have control. Nothing to explain to executor/solicitor.
- But process can be painful for charities and there are transfer costs.
- Understand your internal context.



Present / specific entitlement

- New concept for some solicitors – can be hard to get a response and you don't know they've done it correctly.
- No transfer forms or costs.
- Persuade by alluding to others' mistakes and showing it benefits all.



There are CGT assets in the estate.
What now?

1. Proactively contact solicitor/executor with recommendation to get advice
2. Either 'present or specific entitlement' or accept share transfer
3. Consider private ruling



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633

1. Intervene before shares are sold and persuade to seek deceased estate taxation advice

2. Discover that shares have already been sold but taxes not yet paid. Intervene to lead to:
a) Pay or notify
b) Private ruling

3. Discover that CGT has been paid to ATO already. Only intervention left is to persuade the LPR on a private ruling and amending returns.

2. Discover that shares have already been sold. Taxes not yet paid.

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graph TD; A[2. Discover that shares have already been sold. Taxes not yet paid.] --> B[Shares were sold after claims period but in current FY (up until 30 Jun)]; A --> C[Shares were sold during the claims period]; A --> D[Shares were sold out of the claims period, but not in the current FY]; B --> E[Potential for specific, present entitlement and pay or notify depending on timing]; C --> F[Only option is legal]; D --> G[Private ruling from ATO];
```

Shares were sold after claims period but in current FY (up until 30 Jun)

Potential for specific, present entitlement and pay or notify depending on timing

Shares were sold during the claims period

Only option is legal

Shares were sold out of the claims period, but not in the current FY

Private ruling from ATO

What steps should I take to proactively handle this issue?

1. Build understanding within your charity
2. Clarify internal share transfer process
3. Create email templates (including with deceased estate taxation specialist details)
4. Get asset lists early and understand the risk of CGT assets





1. Proactively recommend executors/solicitors seek advice
2. If shares already sold, still seek advice
3. Flag estates where a thorough check of the final statement/amount received is needed
4. Develop process for warning of late sales on primary residences
5. Check final statements

Stay tuned!

Bequests Promised vs
Bequests Realised 2024
research paper will be
released in November



Questions?