

## **What is Capital Gain Tax?**

Capital Gain Tax, by definition is the tax you pay on profits from disposing of assets including investments, such as property, shares and crypto assets.

Capital Gain Tax is not separate from your income tax if you are an Australian Tax Resident, which means what you gain from selling your investments will be calculated into your individual income tax base subject to your other deductions.

However, if you are a Foreign Tax Resident to Australia, your Capital Gain Tax will be calculated separately, which means your capital gain from selling your investments will be calculated under a certain tax rate applied to foreign tax residents.

## **Am I a Foreign Tax Resident?**

Notably, whether you are a Foreign Tax Resident is not relevant to whether you have an Australian Permanent Residential Visa or even citizenship.

Australian Taxation Office (ATO) usually uses a '183 days' test to determine whether you are an Australian Tax Resident or not. Under this test, if you legally stay in Australia for at least 183 days in one financial year, regardless of your visa category, you will become an Australian Tax Resident for that year.

Example 1: Mr. Wong came to Australia to study with a student visa on 1 December 2023. By the end of this financial year on 30 June 2024, he will become an Australian Tax Resident if he remains stay in Australia more than 183 days on accumulation.

Example 2: Mr. Fung and Mrs. Fung came to Australia to visit their daughter. Because their daughter is an Australian Permanent Resident, they obtained a lengthy tourist visa that they are eligible to stay in Australia for 12 months in an 18-month period. They arrived on 1 December 2023. By the end of this financial year on 30 June 2024, they will become Australian Tax Residents if they remain stay in Australia more than 183 days on accumulation.

Example 3: Mr. Cheung has Australian Citizenship. He works in Hong Kong for the most time of the year with no Australian superannuation lodged from his Hong Kong income. He will become a Foreign Tax Resident in the financial year.

## **Important difference between Australia Tax Resident and Foreign Tax Resident**

If you are an Australian Tax Resident, you are obliged to declare your global income to ATO to see whether it will be included into your tax base, which means wherever you earn an income within Australia or from other countries, you may be taxed by ATO.

If you are a Foreign Tax Resident, you only need to declare and lodge tax for your income in Australia. Any of your income outside Australia will not be taxed by ATO.

However, Foreign Tax Resident bears a higher tax rate than Australian Tax Resident.

### **What is Foreign Capital Gains Withholding?**

To ensure the tax will be collected successfully from foreign tax residents, ATO withholds 12.5% of the selling price of real property where the contract price is \$750,000 or more at present. For example, if your property is sold at \$1,000,000 and you are a Foreign Tax Resident, \$125,000 will be withheld by ATO for tax purpose during the conveyancing. You can lodge tax return with your Tax File Number if the Capital Gain Tax for you is less than \$125,000. You may find an accountant to lodge your tax return.

For contracts for the sale of real property entered into from 1 January 2025, the withholding rate required by purchasers from the purchase price will increase from 12.5% to 15%. And the threshold will be lowered from \$750,000 to 0.

### **If you hold investments in Australia, lodge your Tax annually.**

For an investment property subject to a rental income, you should declare your income to ATO for tax purpose. You may follow these steps to deal with taxation issue for your Australian property.

1. You should apply for your own Tax File Number (TFN). An accountant or solicitor may help you with this.
2. Find a tax agent, usually an accounting firm to help you lodge your tax.
3. Disclose your property purchasing value and rental incomes to your tax agent.
4. Your tax agent may help you to calculate the annual depreciation value of your property.
5. Your tax agent may require any proof of expense to your property that is subject to tax deduction for you. E.g. your payment of council rate, strata fee, maintenance fees of this property, etc.
6. Your annual tax base is calculated by the rental income deducting expense on this property eligible for tax deduction in one financial year.
7. Your tax agent will provide you with a Notice of Assessment provided by ATO for you to pay the tax.

If your investment property is not rented, you are required to pay the vacancy fee annually.

If you never lodged your tax when holding your investment property, when selling your property, whatever Vacancy Fee or rental income tax throughout years will be assessed before you can sale and we cannot preclude the possibility that some penalties may be included by ATO.

Therefore, if you live overseas while holding investments in Australia, we strongly suggest you seek advice from your solicitor or accountant for tax issue.

**We herewith attach the table of tax rates for both Australia and Foreign Tax Resident from 2023 to 2024.**

<b>Resident tax rates 2023–24</b>	
<b>Taxable income</b>	<b>Tax on this income</b>
0 – \$18,200	Nil
\$18,201 – \$45,000	19c for each \$1 over \$18,200
\$45,001 – \$120,000	\$5,092 plus 32.5c for each \$1 over \$45,000
\$120,001 – \$180,000	\$29,467 plus 37c for each \$1 over \$120,000
\$180,001 and over	\$51,667 plus 45c for each \$1 over \$180,000
The above rates <b>do not</b> include the Medicare levy of 2%.	

<b>Foreign resident tax rates 2023–24</b>	
<b>Taxable income</b>	<b>Tax on this income</b>
0 – \$120,000	32.5c for each \$1
\$120,001 – \$180,000	\$39,000 plus 37c for each \$1 over \$120,000
\$180,001 and over	\$61,200 plus 45c for each \$1 over \$180,000

**Disclaimer: All the contents are for general informative purpose, and do not form legal advice. We disclaim any liability arising from reliance on the above contents.**

## 什麼是資本利得稅？

資本利得稅，顧名思義，是指您對處置資產（包括房地產、股票和加密資產等投資）所獲得的利潤所繳納的稅款。

如果您是澳洲稅務居民，資本利得稅與您的所得稅並不分開，這意味著您從出售投資中獲得的收益將計入您的個人所得稅基數，並扣除其他可扣抵項目。

但是，如果您是澳洲的外國稅務居民，您的資本利得稅將單獨計算，這意味著您出售投資的資本利得將根據適用於外國稅務居民的特定稅率計算。

### 我是外國稅務居民嗎？

值得注意的是，您是否是外國稅務居民與您是否擁有澳洲永久居留簽證甚至公民身份無關。

澳洲稅務局 (ATO) 通常使用「183 天」測試來確定您是否是澳洲稅務居民。根據這項測試，如果您在一個財政年度內在澳洲合法居留至少 183 天，無論您的簽證類別如何，您都將成為該年度的澳洲稅務居民。

**例 1：**黃先生於 2023 年 12 月 1 日持學生簽證來到澳洲求學。到本財政年度結束時 2024 年 6 月 30 日，如果他在澳洲停留累計超過 183 天，則將成為澳洲稅務居民。

**例 2：**馮先生和馮太太來澳洲探望他們的女兒。由於他們的女兒是澳洲永久居民，他們獲得了長期旅遊簽證，有資格在 18 個月的時間內在澳洲停留 12 個月。他們於 2023 年 12 月 1 日抵達。到本財政年度結束（即 2024 年 6 月 30 日）時，如果他們在澳洲累計居留超過 183 天，他們將成為澳洲稅務居民。

**例 3：**張先生擁有澳洲公民身分。他一年中大部分時間都在香港工作，沒有從香港收入中繳納澳洲退休金。他將在本財政年度成為外國稅務居民。

### 澳洲稅務居民和外國稅務居民之間的重要區別

如果您是澳洲稅務居民，您有義務向 ATO 申報您的全球收入，以便由 ATO 確認是否計入您的稅基，這意味著無論您在澳洲境內或從其他國家賺取收入，您都可能被 ATO 徵稅。

如果您是外國稅務居民，您只需為您在澳洲的收入申報並繳稅。您在澳洲境外的收入不會被 ATO 課稅。

然而，外國稅務居民的稅率高於澳洲稅務居民。

## 什麼是外國資本利得預扣稅？

為確保外國稅務居民順利徵稅，ATO 對目前合約價格為 75 萬澳元或以上的不動產預扣售價的 12.5%。例如，如果您的房產售價為 1,000,000 澳元，並且您是外國稅務居民，則 ATO 將在轉讓期間出於稅務目的扣留 125,000 澳元。如果您的資本利得稅低於 125,000 澳元，您可以使用您的稅號提交報稅表。您可以由會計師來幫您提交納稅申報表。

對於自 2025 年 1 月 1 日起簽訂的不動產銷售合同，買方要求從購買價格中繳納的預扣稅率將從 12.5% 提高至 15%。而門檻將從 75 萬澳元降至 0。

## 如果您在澳洲持有投資，請每年納稅。

對於需要租金收入的投資房產，您應該向 ATO 申報您的收入以用於納稅目的。您可以按照以下步驟處理您的澳洲財產的稅務問題。

1. 您應申請自己的稅號（TFN）。會計師或律師可幫助您。
2. 尋找稅務代理人（通常是會計師事務所）來幫助您報稅。
3. 向您的稅務代理人揭露您的房產購買價值和租金收入。
4. 您的稅務代理人可能會幫助您計算財產的年度折舊值。
5. 您的稅務代理人可能會要求您提供任何可以為您減稅的費用證明。例如。您支付的市政費、物業費、該房產的維護費等。
6. 您的年度稅基是根據該房產在一個財政年度內的租金收入扣除花在該物業的費用計算。
7. 您的稅務代理人將向您提供 ATO 的稅單，供您繳稅。

如果您的投資房產沒有出租，您需要每年支付空置費用。

如果您在持有投資房產時從未繳稅，則在出售房產時，ATO 將評估多年來的空置費或租金所得稅讓您一併繳交，我們不能排除 ATO 可能會徵收一些罰款的可能性。

因此，如果您居住在海外，同時在澳洲持有投資，我們強烈建議您就稅務問題向您的律師或會計師尋求建議。

謹附上 2023 年至 2024 年澳洲和外國稅務居民稅率表。

2023 年至 2024 年澳洲稅務居民稅率表	
應稅收入	適用稅率
0 – \$18,200	無需繳稅
\$18,201 – \$45,000	19c 每\$1 高於\$18,200 的部分)
\$45,001 – \$120,000	\$5,092 加：32.5c 每\$1（高於 \$45,000 的部分）
\$120,001 – \$180,000	\$29,467 加：37c 每\$1（高於 \$120,000 的部分）
\$180,001 and over	\$51,667 加：45c 每\$1（高於 \$180,000 的部分）
上述稅率不包含 2%的醫保稅。	

2023 年至 2024 年外國稅務居民稅率表	
應稅收入	適用稅率
0 – \$120,000	32.5c 每 \$1
\$120,001 – \$180,000	\$39,000 加：37c 每\$1（高於 \$120,000 部分）
\$180,001 and over	\$61,200 加：45c for each \$1（高於 \$180,000 部分）

免責聲明：所有內容僅供一般參考，不構成法律建議。我們不承擔因依賴上述內容而產生的任何責任。如產生閱讀歧義，以英文文本為準。